United Nations A/HRC/RES/36/1

General Assembly

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5 October 2017

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Human Rights Council
Thirty-sixth session
11–29 September 2017
Agenda item 2

Resolution adopted by the Human Rights Council on 28 September 2017

36/1. Composition of staff of the Office of the United Nations High Commissioner for Human Rights

The Human Rights Council,

Recalling paragraph 5 (g) of General Assembly resolution 60/251 of 15 March 2006, in which the Assembly decided that the Human Rights Council should assume the role and responsibilities of the Commission on Human Rights relating to the work of the Office of the United Nations High Commissioner for Human Rights, as decided by the Assembly in its resolution 48/141 of 20 December 1993,

Taking note of all relevant resolutions on this issue adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council,

Bearing in mind that an imbalance in the composition of the staff could diminish the effectiveness of the work of the Office of the High Commissioner if it is perceived to be culturally biased and unrepresentative of the United Nations as a whole,

Reaffirming the importance of continuing ongoing efforts to address the imbalance regarding the regional representation of the staff of the Office of the High Commissioner, most notably in senior management positions,

Noting with concern that the dependence of the Office of the High Commissioner on extrabudgetary resources is at the heart of the imbalance in the composition of its staff,

Underlining that the paramount consideration for employing staff at every level is the need for the highest standards of efficiency, competence and integrity, taking into account Article 101, paragraph 3 of the Charter of the United Nations, and expressing its conviction that this objective is compatible with the principle of equitable geographical distribution,

Recognizing that the Fifth Committee is the appropriate Main Committee of the General Assembly entrusted with responsibilities for administrative and budgetary matters,

1. *Expresses concern* at the imbalance in the geographical representation in the composition of the Office of the United Nations High Commissioner for Human Rights;

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2. *Expresses serious concern* at the continuous prominent imbalance in the geographical representation of senior management personnel of the Office of the High Commissioner;

3. *Requests* the High Commissioner, within his administrative responsibilities, to redouble his efforts with a view to redress the current imbalance in the geographical composition of the staff of the Office, paying particularly attention to the senior management level and the posts not subject to geographical distribution;

4. *Welcomes* the decision to continue to pay special attention to the achievement of a gender balance in the composition of the staff;

5. *Underlines* the importance of continuing to promote geographical diversity in recruitment and promotion in the Professional category and, in particular, in senior management positions as a principle of the staffing policies of the Office of the High Commissioner;

6. *Recognizes* that efforts to achieve savings and the efficient utilization of resources should not adversely affect the full implementation of mandated programmes and activities and the measures taken for improving the geographical composition of the staff;

7. *Reaffirms* the vital importance of geographical balance in the composition of the staff of the Office of the High Commissioner, taking into account the significance of national and regional specificities and various historic, cultural and religious backgrounds and of different political, economic and legal systems to the promotion and protection of the universality of human rights;

8. *Recalls* the provisions contained in section IX, paragraph 2 of General Assembly resolution 63/250 of 24 December 2008, on human resources management, in which the Assembly requested the Secretary-General to ensure as wide a geographical distribution of staff as possible in all departments, offices and levels, including the Director level and higher levels, of the Secretariat;

9. *Underlines* the priority importance with which the General Assembly should continue to provide support and guidance to the High Commissioner in the ongoing process of improving the geographical balance in the composition of the staff of the Office of the High Commissioner;

10. *Stresses* that extrabudgetary resources, in particular when they are related to the establishment of new posts, shall be used in a manner consistent with the mandates, programmes and activities of the Organization, including the principle of equitable geographical distribution of the staff, and in compliance with the existing budgetary rules and regulations;

11. *Requests* the High Commissioner to continue to improve his interaction with Member States, including within the framework of President's statements PRST/15/2 of 1 October 2010, PRST/18/2 of 30 September 2011 and PRST/19/1 of 22 March 2012, and giving particular attention to the composition of the staff;

12. *Also requests* the High Commissioner to submit a report to the Human Rights Council at its thirty-ninth session on the geographical composition of the staff of the Office of the High Commissioner and the actions taken within the current staff selection system to achieve an equitable geographical representation of the Office, as requested by the Council in the present and past resolutions;

13. *Decides* to remain seized of the matter.

39th meeting
28 September 2017

[Adopted by a recorded vote of 31 to 15, with 1 abstention. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Botswana, Brazil, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Indonesia, Iraq, Kenya, Kyrgyzstan, Mongolia, Nigeria, Panama, Paraguay, Philippines, Qatar, Rwanda, Saudi Arabia, South Africa, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

Albania,* Belgium, Croatia, Georgia, Germany, Hungary, Japan, Latvia, Netherlands, Portugal, Republic of Korea, Slovenia, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining:

Togo]

* The delegation of Albania subsequently informed the Human Rights Council secretariat that it had intended to abstain.

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General Assembly

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Human Rights Council
Thirty-sixth session
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Agenda item 2

Resolution adopted by the Human Rights Council on 28 September 2017

36/2. Mission by the Office of the United Nations High Commissioner for Human Rights to improve the human rights situation and accountability in Burundi

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international human rights instruments,

Recalling also General Assembly resolution 60/251 of 15 March 2006 and Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007,

Recalling further its resolutions 30/27 of 2 October 2015, S-24/1 of 17 December 2015 and 33/24 of 30 September 2016,

Reaffirming that States have the primary responsibility for the promotion and protection of all human rights and fundamental freedoms,

Stressing the primary responsibility of the Government of Burundi for ensuring security in its territory and protecting its population, conducting inquiries into human rights violations and bringing those responsible for such violations to justice, with respect for the rule of law, human rights and international humanitarian law, as applicable,

Reaffirming its strong commitment to the sovereignty, political independence, territorial integrity and unity of Burundi,

Reaffirming also the Arusha Peace and Reconciliation Agreement for Burundi, which has been the basis for the Constitution of Burundi and provides the foundation for peacebuilding, national reconciliation and the strengthening of democracy and the rule of law,

Bearing in mind that the international community, including the Human Rights Council, can play an important role in preventing human rights violations and abuses and mitigating the risk of escalation of conflicts,

Mindful of the importance of the prevention of human rights violations and abuses in Burundi, especially in the context of past mass atrocities in the region,

Welcoming the launch of the inter-Burundian dialogue process and the progress achieved, in a genuine and open manner, based on respect for the Constitution and the Arusha Agreement, and also welcoming the political dialogue for Burundi under the

auspices of the Facilitator of the East African Community, the former President of the United Republic of Tanzania, Benjamin William Mkapa, and with the mediation of the President of Uganda, Yoweri Museveni, and the report of the Facilitator adopted on 20 May 2017 in Dar es Salaam at the Summit of Heads of State of the East African Community,

Noting with appreciation the efforts made by the international community to find a peaceful solution to the crisis facing Burundi, including those of the United Nations, the African Union and the East African Community, and the improvement of the political and security situation in Burundi,

Noting with interest the efforts of the Government of Burundi to combat impunity and strengthen the rule of law, including the adoption of the law on combating gender-based violence and the law on the protection of victims and witnesses, the establishment of the National Observatory for the Prevention and Eradication of the Crime of Genocide, War Crimes and Crimes against Humanity and the National Council for National Unity and Reconciliation, and the reform of the security and justice sector in accordance with the Arusha Agreement,

Commending the assistance for the return of refugees provided by host countries and the Office of the United Nations High Commissioner for Refugees,

Taking note of the report of the Secretary-General on Burundi of 23 February 2017,[1]

Deploring the suspension of cooperation between the Government of Burundi and the United Nations High Commissioner for Human Rights, and calling upon the Government to accelerate the ongoing process of dialogue with a view to resuming such cooperation in an environment of mutual trust,

Taking note of the work of the Commission of Inquiry on Burundi and its report,[2] and expressing its concern about the lack of cooperation between the Government of Burundi and the Commission, including the denial of entry into the territory,

Reaffirming the commitment of the States members of the Human Rights Council to cooperate with international human rights mechanisms,

1. *Expresses its concern* over the continuing challenges regarding the situation of human rights in Burundi, including economic, social and cultural rights;

2. *Strongly condemns* all human rights violations and abuses committed in Burundi, whoever the perpetrators may be;

3. *Takes note* of the allegations that a significant number of violations and abuses were committed by the Burundian security forces, including the national intelligence service and the Imbonerakure, and calls upon the Government of Burundi to continue and intensify its efforts to combat impunity by conducting thorough, independent and impartial investigations of alleged perpetrators of such violations and abuses;

4. *Expresses concern* over the deregistration and suspension of a number of civil society organizations in Burundi and the working conditions of Burundian human rights defenders, some of whom are in exile;

5. *Urges* the Government of Burundi to put an immediate end to human rights violations and abuses, including arbitrary detention and restrictions on the work of human rights defenders and the media, and calls upon them to work in accordance with the law;

6. *Strongly condemns* all public statements and slogans coming from inside or outside the country that incite violence or hatred towards different groups in Burundian society;

7. *Welcomes* the public condemnation of such slogans by officers of the Conseil national pour la défense de la démocratie — Forces pour la défense de la démocratie, and calls upon the Government of Burundi and other parties to refrain from any statements or

[1] S/2017/165.
[2] A/HRC/36/54.

actions that could exacerbate tensions and incite violence, including gender-based violence, to publicly condemn such statements and actions and ensure that all those responsible are held accountable in order to take into account the best interests of the country and to respect fully the letter and spirit of the Constitution of Burundi and the Arusha Agreement, a backbone for peace and democracy;

8. *Calls upon* the Government of Burundi to safeguard and protect the population, with full respect for international law, to respect, protect and guarantee all human rights and fundamental freedoms for all, in accordance with the State's international obligations, to adhere to the rule of law and to establish transparent accountability for acts of violence;

9. *Calls anew upon* the Burundian authorities to conduct thorough and independent investigations of crimes involving serious violations and abuses of human rights so that all perpetrators, regardless of their affiliation, are held accountable before the law;

10. *Notes with satisfaction* the decision of the Government of Burundi to restore its full cooperation with the Human Rights Council and the Office of the United Nations High Commissioner for Human Rights, including by extending full cooperation to its office in Bujumbura, and encourages the Government to cooperate fully with treaty bodies and to improve the working conditions of human rights defenders;

11. *Encourages* the Government of Burundi to cooperate with the regionally led mediation allowing for genuine and open inter-Burundian dialogue, to be convened without delay, involving all unarmed stakeholders, both inside and outside the country, who are convinced of the need for peaceful solutions and are prepared to work to that end, ensuring the meaningful participation of women, in order to reach a consensual and nationally owned solution that would aim to preserve peace, strengthen democracy, ensure the enjoyment of human rights for all in Burundi and restore the prospects and capacity of Burundi for development;

12. *Calls upon* the Burundian authorities to ensure equitable political processes and to create an open and safe space that could lead to the holding of free, fair, inclusive and transparent democratic elections in accordance with the Arusha Agreement and the Constitution of Burundi;

13. *Welcomes and supports* the ongoing efforts made at the regional and subregional levels, including by the East African Community and the Peace and Security Commission of the African Union, to monitor the situation of human rights in Burundi and to contribute to its improvement;

14. *Welcomes* the work of human rights observers in Burundi appointed by the African Union, urges the Government of Burundi to sign without delay the memorandum of understanding with the African Union in order to enable human rights observers and military experts appointed by the African Union to operate fully in the country in fulfilment of the responsibilities provided for under their mandate, and calls upon the international community to give this mandate its full logistical and financial support;

15. *Emphasizes* the existence in Burundi of national, regional and international human rights monitoring mechanisms, including the Independent National Commission on Human Rights, the Ombudsman, the African Union human rights observers and the Office of the United Nations High Commissioner for Human Rights, and affirms the need to strengthen these mechanisms to enable Burundi to improve the situation of human rights and end human rights violations and abuses;

16. *Requests* the Office of the High Commissioner urgently to dispatch a team of three experts with the following mandate:

(*a*) To engage with the Burundian authorities and all other stakeholders, in particular United Nations agencies and the African Union, to collect and preserve information, to determine the facts and circumstances in accordance with international standards and practice, in cooperation with the Government of Burundi, and to forward to the judicial authorities of Burundi such information in order to establish the truth and

ensure that the perpetrators of deplorable crimes are all accountable to the judicial authorities of Burundi;

(*b*) To make recommendations for technical assistance and capacity-building and ways of improving the situation of human rights in the country with a view to providing support to the country in fulfilling its human rights obligations, ensuring accountability and combating impunity;

17. *Requests* the United Nations High Commissioner for Human Rights to present to the Human Rights Council at its thirty-seventh and thirty-eighth sessions an oral briefing and at its thirty-ninth session a final report during an interactive dialogue;

18. *Urges* the Government of Burundi to cooperate fully with the team of experts of the Office of the High Commissioner, to authorize the team to conduct visits to the country and to provide it with all the information necessary to fulfil its mandate;

19. *Decides* to remain seized of the matter.

39th meeting
28 September 2017

[Adopted by a recorded vote of 23 to 14, with 9 abstentions. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Brazil, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Iraq, Kenya, Nigeria, Saudi Arabia, South Africa, Togo, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

Albania, Belgium, Croatia, Georgia, Germany, Hungary, Latvia, Netherlands, Portugal, Republic of Korea, Slovenia, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining:

Botswana, Indonesia, Japan, Kyrgyzstan, Mongolia, Panama, Paraguay, Philippines, Qatar]

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General Assembly

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Agenda item 3

Resolution adopted by the Human Rights Council on 28 September 2017

36/3. The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The Human Rights Council,

Recalling all previous resolutions adopted by the General Assembly, the Human Rights Council and the Commission on Human Rights on the subject, including Assembly resolution 64/151 of 18 December 2009 and Council resolutions 10/11 of 26 March 2009, 15/12 of 30 September 2010, 15/26 of 1 October 2010, 18/4 of 29 September 2011, 24/13 of 26 September 2013, 27/10 of 25 September 2014, 30/6 of 1 October 2015 and 33/4 of 29 September 2016,

Recalling also all relevant resolutions that, inter alia, condemn any State that permits or tolerates the recruitment, financing, training, assembly, transit or use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council, the African Union and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the Elimination of Mercenarism in Africa,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right to determine freely their political status and to pursue freely their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

Reaffirming, further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Extremely alarmed and concerned about the threat posed by the activities of mercenaries to peace and security in developing countries in various parts of the world, in particular in areas of conflict, and about the threat they pose to the integrity of and respect for the constitutional order of the countries affected,

Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policies and economies of affected countries resulting from international criminal mercenary activities,

Convinced that, regardless of the way in which mercenaries or mercenary-related activities are used or the form that they take to acquire a semblance of legitimacy, they are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

1. *Reaffirms* that the use of mercenaries, and their recruitment, financing, protection and training, are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

2. *Recognizes* that armed conflicts, terrorism, arms trafficking and covert operations by third Powers encourage, inter alia, the demand for mercenaries and for private military and security companies on the global market;

3. *Urges once again* all States to take the necessary steps and to exercise the utmost vigilance against the threat posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, and their nationals, are not used for the recruitment, assembly, financing, training, protection and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State or to dismember or to impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

4. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries;

5. *Also requests* all States to exercise the utmost vigilance in banning the use of private companies offering international military consultancy and security services when intervening in armed conflicts or actions to destabilize constitutional regimes;

6. *Calls upon* all States that have not yet become a party to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries to consider taking the necessary action to do so;

7. *Welcomes* the cooperation extended by those countries that were visited by the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

8. *Condemns* mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity of and respect for the constitutional order of those countries and to the exercise of the right to self-determination of their peoples, and stresses the importance for the Working Group of looking into sources and root causes, and into the political motivations of mercenaries and for mercenary-related activities;

9. *Calls upon* States to investigate the possibility of mercenary and mercenary-related involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with national law and applicable bilateral or international treaties;

10. *Recognizes* that mercenary activity is a complex crime in which criminal responsibility falls upon those who have recruited, employed, trained and financed the mercenary or mercenaries, and upon those who have planned and ordered their criminal activity;

11. *Condemns* any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

12. *Calls upon* the international community and all States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities, in transparent, open and fair trials;

13. *Acknowledges with appreciation* the work and contributions of the Working Group, including its research activities, and welcomes its most recent report;[1]

14. *Requests* the Working Group and other experts to continue their participation, including by submitting contributions, in other subsidiary bodies of the Human Rights Council considering issues related to the use of mercenaries and mercenary-related activities in all their forms and manifestations, including private military and security companies;

15. *Requests* the Working Group to continue the work already carried out by previous mandate holders on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of the term "mercenary" drafted by the Special Rapporteur on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination in his report submitted to the Commission on Human Rights at its sixtieth session,[2] and also the evolving phenomenon of mercenaries and its related forms;

16. *Also requests* the Working Group to continue to monitor mercenaries and mercenary-related activities in all their forms and manifestations, and private military and security companies, in different parts of the world, including instances of protection provided by Governments to individuals involved in mercenary activities, and to continue to update the database of individuals convicted of mercenary activities;

17. *Further requests* the Working Group to continue to study and identify sources and causes, emerging issues, manifestations and trends with regard to mercenaries and mercenary-related activities and their impact on human rights, particularly on the right of peoples to self-determination;

18. *Urges* all States to cooperate fully with the Working Group in the fulfilment of its mandate;

19. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the assistance and support necessary for the fulfilment of its mandate, both professional and financial, including by

[1] A/HRC/36/47.

[2] E/CN.4/2004/15.

promoting cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

20. *Requests* the Working Group to consult States, intergovernmental and non-governmental organizations and other relevant civil society actors in the implementation of the present resolution, and to report its findings on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination to the General Assembly at its seventy-third session and to the Human Rights Council at its thirty-ninth session;

21. *Decides* to continue its consideration of this matter under the same agenda item at its thirty-ninth session.

39th meeting
28 September 2017

[Adopted by a recorded vote of 32 to 15, with no abstentions. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Botswana, Brazil, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Indonesia, Iraq, Kenya, Kyrgyzstan, Mongolia, Nigeria, Panama, Paraguay, Philippines, Qatar, Rwanda, Saudi Arabia, South Africa, Togo, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

Albania, Belgium, Croatia, Georgia, Germany, Hungary, Japan, Latvia, Netherlands, Portugal, Republic of Korea, Slovenia, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America]

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Resolution adopted by the Human Rights Council on 28 September 2017

36/4. Mandate of the Independent Expert on the promotion of a democratic and equitable international order

The Human Rights Council,

Recalling all previous resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council on the promotion of a democratic and equitable international order, in particular Assembly resolution 65/223 of 21 December 2010 and Council resolutions 8/5 of 18 June 2008, 18/6 of 29 September 2011, 21/9 of 27 September 2012, 25/15 of 27 March 2014, 27/9 of 25 September 2014, 30/29 of 2 October 2015 and 33/3 of 29 September 2016,

Recalling also Human Rights Council resolutions 5/1, on the institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

Reaffirming that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized,

Reaffirming also the determination expressed in the Preamble to the Charter of the United Nations to save succeeding generations from the scourge of war, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom, to practice tolerance and good neighbourliness, and to employ international machinery for the promotion of the economic and social advancement of all peoples,

Recognizing that democracy, respect for all human rights, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society are an essential part of the necessary foundations for the realization of social and people-centred sustainable development,

Having listened to the peoples of the world, and recognizing their aspirations to justice, equality of opportunity for all, the enjoyment of their human rights, including the

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right to development, to live in peace and freedom, and to equal participation without discrimination in economic, social, cultural, civil and political life,

Resolved to take all measures within its power to secure a democratic and equitable international order,

1. *Reaffirms* that everyone is entitled to a democratic and equitable international order;

2. *Also reaffirms* that a democratic and equitable international order fosters the full realization of all human rights for all;

3. *Takes note* of the report of the Independent Expert on the promotion of a democratic and equitable international order,[1] and welcomes the work conducted by him;

4. *Requests* the Independent Expert to prepare a final report on his studies conducted during the last six years of his mandate, and to share it with the Human Rights Council at its thirty-seventh session;

5. *Decides* to renew the mandate of the Independent Expert on the promotion of a democratic and equitable international order for a period of three years, in conformity with the terms set forth by the Human Rights Council in its resolution 18/6;

6. *Calls upon* all Governments to cooperate with and assist the Independent Expert in the discharge of his or her mandate, and to provide the Independent Expert with all the necessary information requested by the Independent Expert in order to enable him or her to fulfil the duties of the mandate effectively;

7. *Requests* the United Nations High Commissioner for Human Rights to provide all the human and financial resources necessary for the effective fulfilment of the mandate by the Independent Expert;

8. *Invites* the Independent Expert to continue to develop close cooperation with academia, think tanks and research institutes, such as South Centre, and with other stakeholders from all regions;

9. *Requests* the human rights treaty bodies, the Office of the High Commissioner, the special mechanisms of the Human Rights Council and the Human Rights Council Advisory Committee to pay due attention, within their respective mandates, to the present resolution, and to make contributions to its implementation;

10. *Calls upon* the Office of the High Commissioner to build upon the issue of the promotion of a democratic and equitable international order;

11. *Requests* the Independent Expert to report regularly to the Human Rights Council and the General Assembly in accordance with their respective programmes of work;

12. *Decides* to continue its consideration of this matter under the same agenda item at its thirty-ninth session.

39th meeting
28 September 2017

[Adopted by a recorded vote of 32 to 15, with no abstentions. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Botswana, Brazil, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Indonesia, Iraq, Kenya, Kyrgyzstan, Mongolia, Nigeria,

[1] A/HRC/36/40 and Corr.1.

Panama, Paraguay, Philippines, Qatar, Rwanda, Saudi Arabia, South Africa, Togo, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

Albania, Belgium, Croatia, Georgia, Germany, Hungary, Japan, Latvia, Netherlands, Portugal, Republic of Korea, Slovenia, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America]

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Resolution adopted by the Human Rights Council on 28 September 2017

36/5. Unaccompanied migrant children and adolescents and human rights

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, which proclaims that all human beings are born free and equal in dignity and rights, and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of Persons with Disabilities, the Vienna Convention on Consular Relations, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention against Discrimination in Education, the Convention relating to the Status of Refugees and the Protocol thereto, and the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization,

Recalling also all previous resolutions of the General Assembly on the protection of the human rights of migrants, in particular those relating to the situation of unaccompanied migrant children and adolescents, such as resolutions 69/187 of 18 December 2014 and 71/177 of 19 December 2016, the Human Rights Council resolutions on the protection of the human rights of migrants, in particular resolutions 9/5 of 16 September 2008, 12/6 of 12

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October 2009, 29/12 of 2 July 2015, 33/7 of 29 September 2016 and 35/17 of 22 June 2017, Commission on Population and Development resolution 2013/1 of 26 April 2013, entitled "New trends in migrations: demographic aspects", and the Declaration of the High-level Dialogue on International Migration and Development, adopted on 3 October 2013,

Reaffirming the New York Declaration for Refugees and Migrants and the annexes thereto, adopted by the General Assembly in its resolution 71/1 of 19 September 2016,

Reaffirming also the commitments expressed in the New York Declaration, in which Member States recognized — and expressed their willingness to address, in accordance with their obligations under international law — the special needs of all people in vulnerable situations who are travelling within large movements of refugees and migrants, including children, especially those who are unaccompanied or separated from their families, and affirming that children should not be criminalized or subject to punitive measures because of their migration status or that of their parents,

Taking note of the reports submitted by the United Nations High Commissioner for Human Rights on the panel discussion on unaccompanied migrant children and adolescents and human rights held at the thirty-fifth session of the Human Rights Council[1] and on the promotion and protection of the human rights of migrants in the context of large movements, submitted to the Council at its thirty-third session,[2]

Taking note with appreciation of the work of the Special Rapporteur on the human rights of migrants, especially the reports in which the mandate holder addressed the human rights of unaccompanied migrant children and adolescents, in particular his report on the human rights of migrants on a 2035 agenda for facilitating human mobility, presented to the Human Rights Council at its thirty-fifth session,[3]

Noting the work of the Committee on the Rights of the Child related to unaccompanied and separated children, including its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin, and to the outcome of the 2012 day of general discussion on the rights of all children in the context of international migration,

Acknowledging the important contribution made by migrants and migration to development in countries of origin, transit and destination, and the complex interrelationship between migration and development,

Looking forward to the outcome of the ongoing combined work of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Committee on the Rights of the Child to develop a joint general comment on the human rights of children in the context of international migration,

Taking note with appreciation of the report submitted by the Human Rights Council Advisory Committee at the present session on the study on the global issue of unaccompanied migrant children and adolescents and human rights,[4] in which the Committee defines the areas, reasons and cases in which this issue arises in the world, and the way in which human rights are threatened and violated, and makes recommendations for the consideration of States on how to protect the human rights of unaccompanied migrant children and adolescents,

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[1] A/HRC/36/21.
[2] A/HRC/33/67.
[3] A/HRC/35/25.
[4] A/HRC/36/51.

Concerned by the large and growing number of migrants, in particular unaccompanied migrant children or those separated from their parents, who find themselves in vulnerable situations when attempting to cross international borders on dangerous migratory routes, and recognizing the obligation of States to respect the human rights of those migrants regardless of their migratory status, in accordance with their obligations under international law,

Expressing serious concern about the vulnerability of and risks faced by migrants in countries of transit and destination, in particular children, including adolescents, who are unaccompanied or separated from their families, who are forced to flee or decide to leave their homelands owing to multiple causes and who travel alone migratory routes, regardless of their migratory status, since they may be exposed to serious human rights violations and abuses that can threaten their physical, emotional and psychological well-being, and may also be exposed to crimes and human rights abuses committed by transnational criminal organizations or gangs, including crimes such as theft, kidnapping, extortion, physical abuse, the sale of and trafficking in persons, forced labour, and sexual abuse and exploitation,

Reaffirming that the general principles of the Convention on the Rights of the Child, including the best interests of the child, non-discrimination, participation, survival and development, provide the framework for all actions concerning children and should guide legislation, policies and practices relating to children, regardless of their status, including in the context of migration,

Recalling the New York Declaration for Refugees and Migrants, in which the General Assembly recognized the importance of cooperation among countries of origin, transit and destination in ensuring that any type of return, whether voluntary or otherwise, must be consistent with States' obligations under international human rights law and in compliance with the principle of non-refoulement and should respect the rules of international law, and must in addition be conducted in keeping with the best interests of children and with due process, while special attention should be paid to the needs of migrants in vulnerable situations who return, such as unaccompanied or separated children,

Recognizing that, for the full and harmonious development of a child's personality, he or she should grow up in a family environment and in an atmosphere of happiness, love and understanding, and, therefore, that States of origin, destination and, where appropriate, transit should, as applicable under national law, facilitate family reunification as an important objective in order to promote the welfare and the best interests of migrant children, including adolescents,

Welcoming immigration programmes, adopted by some countries, that allow migrants to integrate fully into their host countries, facilitate family reunification and promote a harmonious, tolerant and respectful environment, while encouraging States to consider the possibility of adopting such programmes,

Recognizing that discussions on the global compact for safe, orderly and regular migration are an important opportunity to address the issue of unaccompanied migrant children and adolescents,

1. *Reaffirms* that States, in accordance with their obligations under international law, are responsible for promoting and protecting the human rights and fundamental freedoms of all migrants, regardless of their migration status, and that all migrant children, within their territory and subject to their jurisdiction, are entitled to equal protection under the law, and calls upon States to fully respect their rights, without discrimination of any kind, taking into consideration that they are children first and foremost;

2. *Urges* States to give primary consideration at all times to the best interests of the child, particularly with regard to children in transit or crossing borders, and when formulating policies on integration, return or family reunification, to carry out individualized, comprehensive best-interest assessments to identify the protection needs of migrant children and adolescents, particularly unaccompanied and separated children, and to carry out early and prompt assessments of victims of violence, exploitation and abuse who may qualify for refugee status or other forms of protection;

3. *Calls upon* States to ensure appropriate, integrated and gender-sensitive child protection care and services for all unaccompanied and separated migrant children and adolescents starting from the time of their arrival, in accordance with relevant international legal frameworks, taking into account the principle of the best interests of the child and the special needs of unaccompanied migrant children and those separated from their families, to protect them against all forms of abuse, neglect, exploitation and violence and to work to provide for their health, education and psychosocial development in a manner that is age- and gender-sensitive and that ensures a continuum of protection throughout the migration cycle and across transnational borders;

4. *Also calls upon* States to promote and protect effectively the human rights and fundamental freedoms of all migrants, especially unaccompanied migrant children and adolescents, regardless of their migration status, and to address international migration through international, regional or bilateral cooperation and dialogue and a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants and avoiding approaches that might aggravate their vulnerability;

5. *Encourages* States to prevent the separation of migrant children and adolescents from their families, to establish effective systems in conformity with their international obligations and commitments, and to prioritize family reunification for unaccompanied or separated children with their parents, except when further separation is necessary in the best interests of the child, taking full account of the right of the child to express his or her views freely in matters that affect them and ensuring that applications by the child, or his or her parents, to enter or leave a country for the purpose of family reunification are dealt with in a positive, humane and expeditious manner and entail no adverse consequences for the applicants or family members;

6. *Reminds* States that the detention of a migrant child or adolescent on the basis of their migration status or that of their parents is seldom, if ever, in the best interests of the child, and also reminds them of their commitment to work towards ending this practice, and calls upon States to consider reviewing policies that criminalize cross-border movements and to adopt alternatives to detention for children that take into account the best interests of the child, as a primary consideration, and respect the human rights of migrant children and adolescents, including the right to preserve their identities and family relations and not to be subjected to arbitrary or unlawful interference with their families;

7. *Calls upon* States of origin, transit and destination to find effective and timely responses to the needs of unaccompanied or separated children as soon as they are identified as such, including, where appropriate and feasible, their integration, voluntary and safe repatriation or resettlement, in keeping with the principles of due process, the best interests of the child and non-refoulement, and urges States to develop bilateral or multilateral agreements that standardize approaches for identifying and implementing sustainable solutions for unaccompanied or separated children, including a procedure for monitoring their return;

8. *Encourages* all States to prevent and eliminate discriminatory policies and legislation at all levels of government, including those that deny migrant children access to

education and health care and other social services while taking into account the best interests of the child as a primary consideration in fostering the successful integration of migrant children into education and health-care systems and other social services and the removal of barriers to their education and health in host countries and countries of origin;

9. *Calls upon* all States to ensure that their immigration policies are consistent with their obligations under international law, including, as applicable, human rights and humanitarian law, and to promote the enjoyment of human rights by all migrants without discrimination, including by taking steps to increase cooperation and coordination at all levels to detect and to end serious human rights violations and abuses, in particular trafficking and smuggling of migrant children and other forms of abuse and exploitation;

10. *Encourages* States to take into consideration the present resolution in the development of the global compact for safe, orderly and regular migration, and to consider specific measures to strengthen the rights of migrant children and adolescents, paying particular attention to the specific needs of unaccompanied and separated migrant children;

11. *Requests* the United Nations High Commissioner for Human Rights, within the framework of the preparations for the global compact for safe, orderly and regular migration and in accordance with General Assembly resolutions 71/1 and 71/280 of 6 April 2017, to provide inputs submitted to the Human Rights Council by the Office of the High Commissioner for the forthcoming stocktaking meeting and to engage with Members States and the Special Representative of the Secretary-General for International Migration to help to identify, through a human rights-based approach, concrete measures and best practices to improve the human rights situation of unaccompanied migrant children and adolescents;

12. *Invites* the special procedures of the Human Rights Council, in accordance with their mandates, to continue to give due consideration to the situation of unaccompanied migrant children and adolescents and the impact of this issue on the full enjoyment of their human rights, and to continue to report thereon;

13. *Decides* to remain seized of the matter.

39th meeting
28 September 2017

[Adopted without a vote.]

United Nations A/HRC/RES/36/6

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Agenda item 3

Resolution adopted by the Human Rights Council on 28 September 2017

36/6. Enforced or involuntary disappearances

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the relevant articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights that protect the right of life, the right to liberty and security of person, the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment and the right to recognition as a person before the law,

Recalling Commission on Human Rights resolution 20 (XXXVI) of 29 February 1980, in which the Commission decided to establish a working group of five members to serve as experts in their individual capacity and to examine questions relevant to enforced or involuntary disappearances, and also all previous resolutions on this subject, in particular Human Rights Council resolutions 7/12 of 27 March 2008 and 16/16 of 24 March 2011, in which the Council renewed by consensus the mandate of the Working Group on Enforced or Involuntary Disappearances, as well as Council decision 25/116 of 27 March 2014, and Council resolutions 21/4 of 27 September 2012 and 27/1 of 25 September 2014,

Recalling also General Assembly resolution 47/133 of 18 December 1992, by which the Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance as a body of principles for States, Assembly resolution 61/177 of 20 December 2006, by which it adopted the International Convention for the Protection of All Persons from Enforced Disappearance, which came into force on 23 December 2010, and Assembly resolution 70/160 of 17 December 2015,

Recalling further that no one shall be subjected to enforced disappearance and that no exceptional circumstance whatsoever may be invoked as justification for enforced disappearances,

Welcoming the fact that 96 States have signed the Convention and that 57 States have ratified or acceded to it, and recognizing that its implementation is a significant contribution to ending impunity and to the promotion and protection of all human rights for all,

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Please recycle

Recalling the high-level meeting of the General Assembly held on 17 February 2017 to commemorate the tenth anniversary of the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance, an opportunity to review the positive impact of the Convention and to discuss ways and best practices to prevent enforced disappearances and to combat impunity by, inter alia, promoting the universal ratification of the Convention,

Welcoming the launch by the United Nations High Commissioner for Human Rights of an international campaign for the universal ratification of the Convention,

Deeply concerned in particular by the increase in enforced or involuntary disappearances in various regions of the world, including arrest, detention and abduction, when these are part of or amount to enforced disappearances, and by the growing number of reports concerning the harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of disappeared persons,

Recalling that the Convention sets out the right of victims to know the truth regarding the circumstances of the enforced disappearance, the progress and the result of the investigation and the fate of the disappeared person, provides for the guarantee of access to information concerning the whereabouts of the person deprived of liberty to any person with a legitimate interest in such information, and sets out obligations for the State party to take appropriate measures in this regard,

Taking note with interest of the recommendation made by the Working Group on Enforced or Involuntary Disappearances that more assistance should be provided to family members and members of civil society in order to enable them to report alleged cases of enforced disappearance to the Working Group, given that, in a large number of cases, the underreporting of cases of enforced disappearance remains a major problem owing to various reasons, including, inter alia, fear of reprisal, weak administration of justice, poverty and illiteracy,

Taking note with interest also of the most recent thematic reports prepared by the Working Group, including the study on enforced or involuntary disappearances and economic, social and cultural rights[1] and its report on enforced disappearances in the context of migration,[2]

Acknowledging the fact that acts of enforced disappearance may amount to crimes against humanity as it is defined by the Rome Statute of the International Criminal Court,

Welcoming the decision of the General Assembly to declare 30 August International Day of the Victims of Enforced Disappearances, as well as the decision of the Assembly in its resolution 65/196 of 21 December 2010 to proclaim, pursuant to the recommendation made by the Human Rights Council in its resolution 14/7 of 17 June 2010, 24 March as the International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims, and its call upon Member States, the United Nations system and other international and regional organizations, national human rights institutions, civil society and other relevant stakeholders to observe these days,

Acknowledging that many States cooperate with the Working Group, including by responding favourably to its requests for visits to their countries,

Recalling Human Rights Council resolution 5/1, on institution-building of the Council, and resolution 5/2, on the Code of Conduct for Special Procedures Mandate

[1] See A/HRC/30/38/Add.5.
[2] A/HRC/36/39/Add.2.

Holders of the Council, both of 18 June 2007, and stressing that mandate holders shall discharge their duties in accordance with those resolutions and the annexes thereto,

1. *Calls upon* all States that have not yet signed, ratified or acceded to the International Convention for the Protection of All Persons from Enforced Disappearance to consider doing so as a matter of priority, and to consider as well the option provided for in articles 31 and 32 of the Convention regarding the Committee on Enforced Disappearances;

2. *Calls upon* States to cooperate with the Working Group on Enforced or Involuntary Disappearances and to respond favourably to its request for visits;

3. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to continue their intensive efforts to assist States interested in becoming parties to the Convention, while recognizing that a significant number of States support universal ratification;

4. *Takes note with appreciation* of the reports of the Working Group,[1] and encourages States to give due consideration to the comments and recommendations contained therein;

5. *Welcomes* the important work undertaken by the Working Group to address all situations of enforced disappearance;

6. *Encourages* the Working Group to continue to explore issues regarding enforced disappearances and to continue to submit reports to the Human Rights Council, in accordance with its mandate;

7. *Welcomes* the cooperation established between the Working Group and the Committee on Enforced Disappearances, as well as with other relevant special procedures and treaty bodies, within the framework of their respective mandates, and encourages them to continue their cooperation in the future;

8. *Decides* to extend the mandate of the Working Group for a further period of three years, in conformity with the terms set forth in Human Rights Council resolution 7/12;

9. *Calls upon* States that have not provided substantive replies concerning cases of enforced disappearances in their countries to do so, and to give due consideration to relevant recommendations concerning this issue made by the Working Group in its reports;

10. *Encourages* the Working Group, in accordance with its working methods, to continue to provide the States concerned with relevant and detailed information concerning allegations of enforced disappearances in order to facilitate a prompt and substantive response to these communications without prejudice to the need for the States concerned to cooperate with the Working Group;

11. *Requests* the Secretary-General to continue to provide the Working Group with all financial and human resources necessary to enable it to carry out fully its mandate;

[1] A/HRC/33/51 and A/HRC/36/39.

12. *Decides* to continue consideration of the question of enforced disappearances in accordance with its programme of work.

39th meeting
28 September 2017

[Adopted without a vote.]

United Nations A/HRC/RES/36/7

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Resolution adopted by the Human Rights Council on 28 September 2017

36/7. Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Vienna Declaration and Programme of Action, the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, and other relevant international human rights law and international humanitarian law instruments,

Reaffirming also the significance of the Convention on the Prevention and Punishment of the Crime of Genocide, and recalling in this regard the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity as effective international instruments for the prevention and punishment of genocide, war crimes and crimes against humanity,

Recalling the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly in its resolution 61/177 of 20 December 2006, in which article 24, paragraph 2 sets out the right of victims to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person, and sets forth State party obligations to take appropriate measures in this regard, and the preamble reaffirms the right to freedom to seek, receive and impart information to that end,

Recalling also the set of principles for the protection and promotion of human rights through action to combat impunity,[1] and the updated version of those principles,[2]

[1] E/CN.4/Sub.2/1997/20/Rev.1, annex II.
[2] E/CN.4/2005/102/Add.1.

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1717514

Please recycle

Recalling further General Assembly resolution 60/147 of 16 December 2005, in which the Assembly adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,

Recalling Commission on Human Rights resolutions 2005/70 of 20 April 2005, on human rights and transitional justice, 2005/81 of 21 April 2005, on impunity, and 2005/66 of 20 April 2005, on the right to the truth, Human Rights Council resolutions 9/10 of 24 September 2008, 12/11 of 1 October 2009, 21/15 of 27 September 2012 and 33/19 of 30 September 2016, on human rights and transitional justice, 9/11 of 18 September 2008, 12/12 of 1 October 2009 and 21/7 of 27 September 2012, on the right to the truth, 10/26 of 27 March 2009 and 15/5 of 29 September 2010, on forensic genetics and human rights, Council decisions 2/105 of 27 November 2006, on the right to the truth, and 4/102 of 23 March 2007, on transitional justice, and General Assembly resolution 68/165 of 18 December 2013, on the right to the truth,

Reaffirming Human Rights Council resolution 18/7 of 29 September 2011, in which the Council decided to establish the mandate of Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,

Recalling the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies[3] and his 2011 follow-up report on the same topic,[4] including the relevant recommendations contained therein, as well as his reports issued in 2006, 2012, 2013 and 2014[5] outlining a programme of action to enhance the effectiveness of the support provided by the United Nations system for the promotion of the rule of law in conflict and post-conflict situations,

Acknowledging that the fight against impunity and the implementation of transitional justice processes, including the promotion of truth, justice, reparation and guarantees of non-recurrence, can prevent the recurrence of gross violations of human rights and serious violations of international humanitarian law,

Recalling General Assembly resolution 70/262 of 27 April 2016, on the review of the United Nations peacebuilding architecture, and Security Council resolution 2282 (2016) of 27 April 2016, in which the Assembly and the Council, inter alia, stressed that a comprehensive approach to transitional justice, including the promotion of healing and reconciliation, a professional, accountable and effective security sector, including through its reform, and inclusive and effective demobilization, disarmament and reintegration programmes, including the transition from demobilization and disarmament to reintegration, are critical to the consolidation of peace and stability, promoting poverty reduction, the rule of law, access to justice and good governance, further extending legitimate State authority and preventing countries from lapsing or relapsing into conflict,

Noting with appreciation the active engagement of the United Nations, including the Office of the United Nations High Commissioner for Human Rights, in assisting States to address gross human rights violations and serious violations of international humanitarian law, in cooperation with and at the request of States,

Recalling its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

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[3] S/2004/616.

[4] S/2011/634.

[5] A/61/636-S/2006/980 and Corr.1, A/66/749, S/2013/341, A/68/213/Add.1 and A/69/181.

Recognizing that the Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence will continue to deal with situations in which there have been gross violations of human rights and serious violations of international humanitarian law,

Underlining the fact that, when designing and implementing strategies, policies and measures to address gross human rights violations and serious violations of international humanitarian law, the specific context of each situation must be taken into account with a view to preventing the recurrence of crises and future violations of human rights, to ensure social cohesion, nation-building, ownership and inclusiveness at the national and local levels, and to promote reconciliation,

Emphasizing the importance of a comprehensive approach incorporating the full range of judicial and non-judicial measures, including, among others, individual prosecutions, reparations, truth-seeking, institutional reform, the vetting of public employees and officials, memorialization initiatives and processes to achieve shared narratives or an appropriately conceived combination thereof, in order to, inter alia, ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation, establish independent oversight of the security system and restore confidence in the institutions of the State and promote the rule of law in accordance with international human rights law,

1. *Takes note with appreciation* of the reports of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence submitted to the Human Rights Council at its thirtieth, thirty-fourth and thirty-sixth[6] sessions, as well as those submitted to the General Assembly at its sixty-ninth, seventieth and seventy-first[7] sessions, and calls upon States to take due consideration of the recommendations contained therein when designing and implementing strategies, policies and measures to address gross human rights violations and serious violations of international humanitarian law within their national context;

2. *Welcomes* the work undertaken by the Special Rapporteur in the implementation of his mandate, the comprehensive, transparent and inclusive consultations conducted with relevant actors from all regions for his thematic reports, and the undertaking of country visits;

3. *Also welcomes* the cooperation of those States that have received the Special Rapporteur in their country, those that have accepted requests for visits by the Special Rapporteur and those that have extended invitations to the Special Rapporteur to visit their country, as well as those that have responded to his requests for information;

4. *Decides* to extend for a period of three years the mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, whose tasks will include:

(*a*) To contribute to and, where applicable, facilitate, upon request, the provision of technical assistance or advisory services on the issues pertaining to the mandate;

(*b*) To gather relevant information on national situations, including on normative frameworks, national practices and experiences, such as truth and reconciliation commissions and other mechanisms, relating to the promotion of truth, justice, reparation and guarantees of non-recurrence in addressing gross violations of human rights and serious

[6] A/HRC/30/42 and Add.1, A/HRC/34/62 and Add.1, and A/HRC/36/50 and Add.1.

[7] See A/69/518, A/70/438 and A/71/567.

violations of international humanitarian law, and to study trends, developments and challenges and to make recommendations thereon;

(*c*) To identify, exchange and promote good practices and lessons learned, and to identify potential additional elements with a view to recommending ways and means to improve and strengthen the promotion of truth, justice, reparation and guarantees of non-recurrence;

(*d*) To develop a regular dialogue and to cooperate with, inter alia, Governments, international and regional organizations, national human rights institutions and non-governmental organizations, and relevant United Nations bodies and mechanisms;

(*e*) To make recommendations concerning, inter alia, judicial and non-judicial measures when designing and implementing strategies, policies and measures for addressing gross violations of human rights and serious violations of international humanitarian law;

(*f*) To explore further the contribution of transitional justice to the prevention of gross violations of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity, and their recurrence;

(*g*) To conduct country visits and to respond promptly to invitations from States;

(*h*) To participate in and contribute to relevant international conferences and events with the aim of promoting a systematic and coherent approach on issues pertaining to the mandate;

(*i*) To raise awareness concerning the value of a systematic and coherent approach when dealing with gross violations of human rights and serious violations of international humanitarian law, and to make recommendations in this regard;

(*j*) To integrate a gender perspective throughout the work of the mandate;

(*k*) To integrate a victim-centred approach throughout the work of the mandate;

(*l*) To work in close coordination, while avoiding unnecessary duplication, with the Office of the United Nations High Commissioner for Human Rights, other relevant entities of the United Nations Secretariat, relevant United Nations agencies, funds and programmes, intergovernmental and non-governmental organizations, other special procedures of the Human Rights Council and other relevant actors;

5. *Urges* all States to cooperate with and to assist the Special Rapporteur so that his mandate can be carried out effectively, including by responding favourably and rapidly to requests for visits, mindful that country visits are one of the essential tools for the fulfilment of the mandate of the Special Rapporteur, and to provide him in a timely manner with all the necessary information requested by him;

6. *Requests* the Special Rapporteur to continue to report annually to the Human Rights Council and the General Assembly;

7. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all the human, technical and financial assistance necessary for the effective fulfilment of his mandate;

8. *Decides* to continue its consideration of this matter under the same agenda item and in accordance with its programme of work.

39th meeting
28 September 2017

[Adopted without a vote.]

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36/8. The full enjoyment of human rights by all women and girls and the systematic mainstreaming of a gender perspective into the implementation of the 2030 Agenda for Sustainable Development

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights and that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing,

Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and all other human rights instruments,

Recalling also the Vienna Declaration and Programme of Action, the Programme of Action of the International Conference on Population and Development, the Beijing Declaration and Platform of Action, the Durban Declaration and Programme of Action and the outcome documents of their review conferences,

Recalling further General Assembly resolution 70/1 of 25 September 2015, entitled "Transforming our world: the 2030 Agenda for Sustainable Development",

Recalling all relevant resolutions adopted by the General Assembly and the Human Rights Council, as well as the agreed conclusions adopted by the Commission on the Status of Women, including the agreed conclusions on women's empowerment and the link to sustainable development,

Recalling also that the 2030 Agenda for Sustainable Development is grounded in the Universal Declaration of Human Rights and international human rights treaties, and is informed by the Declaration on the Right to Development, and recognizing that its

implementation must be consistent with States' obligations under international human rights law,

Stressing that the full realization of gender equality and the empowerment of all women and girls will make a crucial contribution to progress across all the Goals and targets of the 2030 Agenda, and that the systematic mainstreaming of a gender perspective into the implementation of the Agenda is crucial,

1. *Recognizes* that the respect, protection and fulfilment of the full enjoyment of human rights by all women and girls and the full implementation of all Goals and targets of the 2030 Agenda for Sustainable Development are interrelated and mutually reinforcing;

2. *Also recognizes* that the full implementation of all Goals and targets of the 2030 Agenda is not possible without the respect, protection and fulfilment of the full enjoyment of human rights and fundamental freedoms by all women and girls, including the right to development, which should be mainstreamed into all policies and programmes aimed at the implementation of the Sustainable Development Goals, in particular the eradication of poverty;

3. *Requests* the United Nations High Commissioner for Human Rights, in collaboration with Member States, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the United Nations Population Fund and other United Nations agencies, funds and programmes, international human rights mechanisms, civil society organizations and other relevant stakeholders, to organize a two-day intersessional expert meeting to consider gaps in, challenges to and best practices aimed at the full enjoyment of human rights by all women and girls and the systematic mainstreaming of a gender perspective into the implementation of the 2030 Agenda, to prepare a report on the outcome of the above-mentioned meeting, and to present the report to the Human Rights Council at its thirty-ninth session.

39th meeting
28 September 2017

[Adopted without a vote.]

General Assembly

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Agenda item 3

Resolution adopted by the Human Rights Council on 28 September 2017

36/9. The right to development

The Human Rights Council,

Recalling the Charter of the United Nations and the core human rights instruments,

Reaffirming the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986,

Reiterating the Vienna Declaration and Programme of Action, which reaffirms the right to development as a universal and inalienable right and an integral part of every human right,

Reaffirming Human Rights Council resolutions 4/4 of 30 March 2007 and 9/3 of 17 September 2008, and recalling all Council and General Assembly resolutions on the right to development, the most recent being Council resolution 33/14 of 29 September 2016 and Assembly resolution 71/192 of 19 December 2016,

Recalling all Commission on Human Rights resolutions on the right to development, including resolutions 1998/72 of 22 April 1998 and 2004/7 of 13 April 2004 in support of the implementation of the right to development,

Welcoming the seventeenth Summit of Heads of State or Government of Non-Aligned Countries, held on Margarita Island, Bolivarian Republic of Venezuela, on 17 and 18 September 2016, and recalling previous summits and conferences at which the States members of the Movement of Non-Aligned Countries stressed the need to operationalize the right to development as a priority, including through the elaboration of a convention on the right to development by the relevant machinery, taking into account the recommendations of relevant initiatives,

Emphasizing the urgent need to make the right to development a reality for everyone,

Emphasizing also that all human rights and fundamental freedoms, including the right to development, can only be enjoyed in an inclusive and collaborative framework at the international, regional and national levels, and in this regard underlining the importance of engaging the United Nations system, including United Nations specialized agencies,

funds and programmes, within their respective mandates, relevant international organizations, including financial and trade organizations, and relevant stakeholders, including civil society organizations, development practitioners, human rights experts and the public at all levels, in discussions on the right to development,

Stressing that the responsibility for managing worldwide economic and social issues and threats to international peace and security must be shared among the nations of the world and should be exercised multilaterally, and that, in this regard, the central role must be played by the United Nations as the most universal and representative organization in the world,

Welcoming the adoption of the 2030 Agenda for Sustainable Development,[1] and emphasizing that the 2030 Agenda is informed by the Declaration on the Right to Development and that the right to development provides a vital enabling environment for the full realization of the Sustainable Development Goals,

Recognizing that achieving the internationally agreed development goals, including the unmet Millennium Development Goals, the Sustainable Development Goals and climate change-related goals, requires effective policy coherence and coordination,

Recognizing also that hunger and extreme poverty, in all its forms and dimensions, are the greatest global challenges and require the collective commitment of the international community for their eradication, and therefore calling upon the international community to contribute to the achievement of that goal, in accordance with the Sustainable Development Goals,

Expressing concern about the increasing number of cases of human rights violations and abuses by some transnational corporations and other business enterprises, underlining the need to ensure that appropriate protection, justice and remedies are provided to the victims of human rights violations and abuses resulting from the activities of those entities, and underscoring the fact that they must contribute to the means of implementation for the realization of the right to development,

Emphasizing that all human rights and fundamental freedoms, including the right to development, are universal, indivisible, interdependent and interrelated,

Underlining that the successful implementation of the Sustainable Development Goals will require the strengthening of a new, more equitable and sustainable national and international order, and the promotion and protection of all human rights and fundamental freedoms,

Noting the commitment declared by a number of United Nations specialized agencies, funds and programmes and other international organizations to make the right to development a reality for all, and in this regard urging all relevant bodies of the United Nations system and other international organizations to mainstream the right to development into their objectives, policies, programmes and operational activities, and into development and development-related processes, including the follow-up to the Fourth United Nations Conference on the Least Developed Countries,

Stressing the primary responsibility of States for the creation of national and international conditions favourable to the realization of the right to development,

Recognizing that Member States should cooperate with each other in ensuring development and eliminating lasting obstacles to development, that the international community should promote effective international cooperation, in particular global

[1] General Assembly resolution 70/1.

partnerships for development, for the realization of the right to development and the elimination of obstacles to development, and that lasting progress towards the implementation of the right to development requires effective development policies at the national level, equitable economic relations and a favourable economic environment at the international level,

Encouraging all Member States to engage constructively in the discussions for the full implementation of the Declaration on the Right to Development with a view to overcoming the existing political impasse within the Working Group on the Right to Development,

Affirming that the thirtieth anniversary of the Declaration on the Right to Development presented a unique opportunity for the international community to demonstrate and reiterate its unequivocal commitment to the right to development, recognizing the high profile it deserves, and redoubling its efforts to implement this right,

Stressing that, in General Assembly resolution 48/141 of 20 December 1993, the Assembly decided that the responsibility of the United Nations High Commissioner for Human Rights shall be, among others, to promote and protect the realization of the right to development and to enhance support from relevant bodies of the United Nations system for that purpose,

Recognizing the need for independent perspectives and expert advice to strengthen the work of the Working Group on the Right to Development and to support the efforts of Member States to realize fully the right to development, including in the context of the implementation of the Sustainable Development Goals,

Reaffirming Human Rights Council resolutions 5/1, on institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge the duties of the mandate in accordance with those resolutions and the annexes thereto,

1. *Takes note* of the consolidated report of the Secretary-General and the United Nations High Commissioner for Human Rights on the right to development;[2]

2. *Requests* the High Commissioner to continue to submit to the Human Rights Council an annual report on the activities of the Office of the United Nations High Commissioner for Human Rights, including on inter-agency coordination within the United Nations system that have direct relevance to the realization of the right to development, and to provide an analysis of its implementation, taking into account existing challenges and making recommendations on how to overcome them, in his next annual report;

3. *Urges* the High Commissioner to pursue his efforts, in fulfilment of his mandated responsibility, to enhance support for the promotion and protection of the realization of the right to development, taking as reference the Declaration on the Right to Development, all resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council on the right to development, and agreed conclusions and recommendations of the Working Group on the Right to Development;

4. *Requests* the Office of the High Commissioner, in the implementation of the Declaration on the Right to Development, to take sufficient measures to ensure balanced and visible allocation of resources and due attention to ensure the visibility of the right to development by identifying and implementing tangible projects dedicated to the right to

[2] A/HRC/36/23.

development, in collaboration with the Special Rapporteur on the right to development, and to provide regular updates to the Human Rights Council in this regard;

5. *Recognizes* the need for renewed efforts towards intensifying deliberations in the Working Group to fulfil, at the earliest, its mandate as established by the Commission on Human Rights in its resolution 1998/72 and the Human Rights Council in its resolution 4/4;

6. *Acknowledges* the need to strive for greater acceptance, operationalization and realization of the right to development at the international level, while urging all States to undertake at the national level the necessary policy formulation and to institute the measures required for the implementation of the right to development as an integral part of all human rights and fundamental freedoms;

7. *Welcomes* the celebrations held in 2016 to commemorate the thirtieth anniversary of the Declaration on the Right to Development, including the annual high-level panel discussion on human rights mainstreaming, with the theme "The 2030 Agenda for Sustainable Development and human rights, with an emphasis on the right to development", convened at the thirty-first session of the Human Rights Council, the panel discussion on the promotion and protection of the right to development, convened at the thirty-second session of the Council, and the high-level segment of the General Assembly to commemorate the thirtieth anniversary of the Declaration on the Right to Development, held at the seventy-first session of the Assembly, which provided a unique opportunity to Member States to demonstrate and reiterate their political commitment, accord the right to development the great attention it deserves and to redouble their efforts towards the realization of the right to development;

8. *Also welcomes* the report of the Chair-Rapporteur of the Working Group on the Right to Development on its eighteenth session;[3]

9. *Further welcomes* the re-election of the Chair-Rapporteur of the Working Group and the skill with which he led the discussions at the eighteenth session;

10. *Notes* the presentation to the Working Group at its eighteenth session of the set of standards for the implementation of the right to development prepared by the Chair-Rapporteur of the Working Group,[4] which is a useful basis for further deliberations on the implementation and realization of the right to development;

11. *Acknowledges* the preparation by the secretariat of a paper containing comments and views submitted by Governments, groups of Governments, regional groups and stakeholders on the criteria and operational subcriteria of the right to development;[5]

12. *Requests* the Working Group to finalize its consideration of the criteria and operational subcriteria as expeditiously as possible, preferably by no later than its nineteenth session;

13. *Acknowledges with appreciation* the proposal by the Movement of Non-Aligned Countries on a set of standards regarding the implementation and realization of the right to development[6] and its further contributions aimed at finalizing the criteria and subcriteria of the right to development;[7]

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[3] A/HRC/36/35.
[4] A/HRC/WG.2/17/2.
[5] A/HRC/WG.2/18/CRP.1.
[6] A/HRC/WG.2/18/G/1.
[7] See A/HRC/WG.2/18/CRP.1.

14. *Requests* the High Commissioner to facilitate the participation of experts in the nineteenth session of the Working Group, to provide advice with a view to contributing to discussions on the implementation and realization of the right to development, including the implications of the 2030 Agenda for Sustainable Development, and looks forward to the possible engagement of the Working Group with the high-level political forum;

15. *Welcomes* the report of the Special Rapporteur on the right to development submitted to the Human Rights Council,[8] and requests him to pay particular attention to the implementation of the right to development, which facilitates the full enjoyment of human rights, in accordance with his mandate;

16. *Requests* the Special Rapporteur on the right to development to hold consultations with States and regional consultations on the implementation of the right to development, and requests the Office of the High Commissioner to assist the Special Rapporteur in the organization and holding of those consultations, including through the allocation of sufficient budgetary resources;

17. *Decides*:

(*a*) To continue to act to ensure that its agenda promotes and advances sustainable development and the achievement of the remaining Millennium Development Goals and of the Sustainable Development Goals, and in this regard lead to raising the right to development, as set out in paragraphs 5 and 10 of the Vienna Declaration and Programme of Action, to the same level and on a par with all other human rights and fundamental freedoms;

(*b*) To endorse the recommendations of the Working Group adopted at its eighteenth session;

(*c*) That the Working Group, taking into account Human Rights Council resolution 9/3, shall finalize its consideration of the criteria and operational subcriteria, preferably no later than its nineteenth session, in relation to the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development, and shall take appropriate steps to ensure respect for the practical application of these standards in order for them to evolve into a basis for consideration of an international legal standard of a binding nature, through a collaborative process of engagement;

(*d*) That the Working Group shall invite the Special Rapporteur, in consultation with Member States, to provide his views on the work of the Working Group and its relevant agenda items, at its nineteenth session;

18. *Encourages* relevant bodies of the United Nations system, within their respective mandates, including United Nations specialized agencies, funds and programmes, relevant international organizations, including the World Trade Organization and relevant stakeholders, including civil society organizations, to give due consideration to the right to development in the implementation of the 2030 Agenda for Sustainable Development, to contribute further to the work of the Working Group, and to cooperate with the High Commissioner and the Special Rapporteur in the fulfilment of their mandates with regard to the implementation of the right to development;

[8] A/HRC/36/49.

19. *Decides* to review the progress of the implementation of the present resolution, as a matter of priority, at its future sessions.

39th meeting
28 September 2017

[Adopted by a recorded vote of 31 to 11, with 4 abstentions. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Botswana, Brazil, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Indonesia, Iraq, Kenya, Kyrgyzstan, Mongolia, Nigeria, Paraguay, Philippines, Qatar, Rwanda, Saudi Arabia, South Africa, Togo, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

Belgium, Croatia, Georgia, Germany, Hungary, Japan, Latvia, Netherlands, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining:

Albania, Portugal, Republic of Korea, Slovenia]

United Nations A/HRC/RES/36/10

General Assembly

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Resolution adopted by the Human Rights Council on 28 September 2017

36/10. Human rights and unilateral coercive measures

The Human Rights Council,

Recalling the purposes and principles of the Charter of the United Nations,

Recalling also all previous resolutions on human rights and unilateral coercive measures adopted by the Commission on Human Rights, the Human Rights Council and the General Assembly,

Reaffirming Human Rights Council resolution 34/13 of 24 March 2017 and General Assembly resolution 71/193 of 19 December 2016,

Stressing that unilateral coercive measures and legislation are contrary to international law, international humanitarian law, the Charter and the norms and principles governing peaceful relations among States,

Recognizing the universal, indivisible, interdependent and interrelated character of all human rights, and in this regard reaffirming the right to development as a universal and inalienable right and an integral part of all human rights,

Expressing its grave concern at the negative impact of unilateral coercive measures on human rights, development, international relations, trade, investment and cooperation,

Reaffirming that no State may use or encourage the use of any type of measure, including but not limited to economic or political measures, to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind,

Recognizing that unilateral coercive measures in the form of economic sanctions have far-reaching implications for the human rights of the general population of targeted States, disproportionately affecting the poor and the most vulnerable classes,

Alarmed by the fact that most current unilateral coercive measures have been imposed, at great cost, in terms of the human rights of the poorest and of persons in vulnerable situations, on developing countries by developed countries,

Underlining that under no circumstances should people be deprived of their basic means of survival,

Recognizing that long-term unilateral coercive measures may result in social problems and raise humanitarian concerns in the States targeted,

Highlighting the deep-rooted problems and grievances within the international system and the importance for the United Nations to give a voice to all members of the international community in order to ensure multilateralism, mutual respect and the peaceful settlement of disputes,

Expressing its grave concern that the laws and regulations imposing unilateral coercive measures have, in some instances, an extraterritorial effect not only on targeted countries but also on third countries, in contravention of the basic principles of international law, in a manner that will coerce the latter also to apply the unilateral coercive measures,

Welcoming the final document and declaration adopted at the seventeenth Summit of Heads of State and Government of the Movement of Non-Aligned Countries, held on Margarita Island, Bolivarian Republic of Venezuela, on 17 and 18 September 2016, in which the Movement reaffirmed, among other things, its principled position of condemnation of the promulgation and application of unilateral coercive measures against countries of the Movement, which are in violation of the Charter and international law and undermine, among other things, the principles of sovereignty, territorial integrity, political independence, self-determination and non-interference,

Reaffirming that each State has full sovereignty over the totality of its wealth, natural resources and economic activity, exercising it freely, in accordance with General Assembly resolution 1803 (XVII) of 14 December 1962,

Recalling that the World Conference on Human Rights, held in Vienna from 14 to 25 June 1993, called upon States to refrain from any unilateral measure not in accordance with international law and the Charter and that created obstacles to trade relations among States and impeded the full realization of all human rights, and that also severely threatened the freedom of trade,

Deeply concerned that, despite the resolutions adopted on this issue by the General Assembly, the Human Rights Council, the Commission on Human Rights and at United Nations conferences held in the 1990s and at their five-year reviews, and contrary to norms of international law and the Charter, unilateral coercive measures continue to be promulgated, implemented and enforced by, inter alia, resorting to war and militarism, with all their negative implications for the social-humanitarian activities and economic and social development of developing countries, including their extraterritorial effects, thereby creating additional obstacles to the full enjoyment of all human rights by peoples and individuals under the jurisdiction of other States,

Deeply disturbed by the negative impact of unilateral coercive measures on the right to life, the rights to health and medical care, the right to freedom from hunger and the right to an adequate standard of living, food, education, work and housing,

Alarmed by the disproportionate and indiscriminate human costs of unilateral sanctions and their negative effects on the civilian population, in particular women and children, of targeted States,

Reaffirming that unilateral coercive measures are major obstacles to the implementation of the Declaration on the Right to Development,

Concerned that unilateral coercive measures have prevented humanitarian organizations from making financial transfers to States where they work,

Underlining that, in each situation worldwide, unilateral coercive measures have a negative impact on human rights,

Underlining also the necessity of examining the wide range of impact of unilateral coercive measures on international humanitarian and human rights law and on the economy, peace, security and social fabric of States,

Highlighting the need to monitor human rights violations associated with unilateral coercive measures and to promote accountability,

Recalling Human Rights Council resolutions 5/1, on the institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his duties in accordance with those resolutions and the annexes thereto,

Recalling also article 1 (2), common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which provides that, inter alia, in no case may a people be deprived of its own means of subsistence,

1. *Welcomes* the work of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, including his thematic reports and country visits;

2. *Also welcomes* the report of the Special Rapporteur;[1]

3. *Decides* to extend for a period of three years the mandate of the Special Rapporteur, as set out in Human Rights Council resolution 27/21 of 26 September 2014;

4. *Requests* the Office of the United Nations High Commissioner for Human Rights to continue to give high priority to human rights and unilateral coercive measures, to pursue further work in this area in full cooperation with the Special Rapporteur in his various activities, and to continue to provide the Special Rapporteur with all the assistance necessary for the effective fulfilment of his mandate;

5. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in his tasks, to supply all necessary information requested by the mandate holder, and to respond favourably to his requests to visit their countries to enable him to fulfil his mandate effectively;

6. *Invites* relevant United Nations agencies, funds and programmes, treaty bodies and civil society actors, including non-governmental organizations, as well as the private sector, to cooperate fully with the Special Rapporteur in the fulfilment of his mandate;

7. *Decides* to continue its consideration of the issue of human rights and unilateral coercive measures in accordance with its programme of work.

39th meeting
28 September 2017

[Adopted by a recorded vote of 30 to 15, with 1 abstention. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Botswana, Brazil, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Indonesia, Iraq, Kenya, Kyrgyzstan, Mongolia, Nigeria,

[1] A/HRC/36/44.

Paraguay, Philippines, Qatar, Rwanda, Saudi Arabia, South Africa, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

Albania, Belgium, Croatia, Georgia, Germany, Hungary, Japan, Latvia, Netherlands, Portugal, Republic of Korea, Slovenia, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining:

Togo]

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Resolution adopted by the Human Rights Council on 28 September 2017

36/11. Mandate of the open-ended intergovernmental working group to elaborate the content of an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling General Assembly resolution 60/251 of 15 March 2006, and Human Rights Council resolution 5/1, on institution-building of the Council, and resolution 5/2, on the Code of Conduct for Special Procedures Mandate Holders, both of 18 June 2007,

Recalling also Human Rights Council resolution 15/26 of 1 October 2010, establishing the open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies,

Taking note of the recommendations of the first six sessions of the open-ended intergovernmental working group,

Recognizing the need to protect human rights and ensure accountability for violations and abuses relating to the activities of private military and security companies,

Noting relevant national, regional and international standards and tools, including those prepared by various stakeholders,

1. *Decides* to establish a new open-ended intergovernmental working group, for a period of three years, with a mandate to elaborate the content of an international regulatory framework, without prejudging the nature thereof, to protect human rights and ensure accountability for violations and abuses relating to the activities of private military and security companies, to be informed by the discussion document on elements for an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies, as prepared by the Chair-Rapporteur, and further inputs from Member States and other stakeholders;

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2. *Also decides* that the working group shall meet for five working days and submit an annual progress report to the Human Rights Council in conformity with its annual programme of work;

3. *Acknowledges* the importance of providing the working group with the expertise and expert advice necessary to fulfil its mandate, and decides that the working group shall invite experts and all relevant stakeholders to participate in its work;

4. *Invites* the contributions of Governments, relevant special procedure mandate holders and mechanisms of the Human Rights Council, the treaty bodies, regional groups, intergovernmental organizations, civil society, the industry and other stakeholders with relevant expertise, including the Co-Chairs of the Montreux Document Forum and the International Code of Conduct Association;

5. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the working group with all the financial and human resources necessary for the fulfilment of its mandate;

6. *Decides* to remain seized of this important matter.

39th meeting
28 September 2017

[Adopted without a vote.]

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Resolution adopted by the Human Rights Council on 28 September 2017

36/12. World Programme for Human Rights Education

The Human Rights Council,

Recalling the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international human rights instruments,

Reaffirming the call of the World Conference on Human Rights, held in Vienna in 1993, on all States and institutions to include human rights, humanitarian law, democracy and rule of law in the curricula of all learning institutions, and its statement that human rights education should include peace, democracy, development and social justice, as set forth in international and regional human rights instruments, in order to achieve common understanding and awareness with a view to strengthening universal commitment to human rights,

Reaffirming also that all human rights are universal, indivisible, interdependent and interrelated, and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis, and while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms,

Recalling General Assembly resolution 59/113A of 10 December 2004, in which the Assembly proclaimed the World Programme for Human Rights Education as an international effort under the auspices of the United Nations to advance the implementation of human rights education in all sectors, and all previous resolutions of the Human Rights Council on human rights education and training,

Reaffirming the United Nations Declaration on Human Rights Education and Training, adopted by the General Assembly in its resolution 66/137 on 19 December 2011, and that States are duty-bound, as stipulated in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, to ensure that education is aimed at strengthening respect for human rights and fundamental freedoms,

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and that every individual and every organ of society should strive by teaching and education to promote respect for human rights and fundamental freedoms,

Recalling the 2005 World Summit Outcome, in which Heads of State and Government supported the promotion of human rights education and learning at all levels, including through the implementation of the World Programme for Human Rights Education, as appropriate, and encouraged all States to develop initiatives in that regard,

Recalling also that the World Programme is an ongoing initiative structured in consecutive phases to advance the implementation of human rights education programmes in all sectors, and that States should continue the implementation of previous phases while taking the necessary measures to implement the ongoing phase,

Convinced that human rights education is a long-term and lifelong process by which everyone learns tolerance and respect for the dignity of others and the means and methods of ensuring that respect in all societies,

Reaffirming the constructive role played by national human rights institutions, in particular in their advisory capacity to the competent authorities, in the dissemination of human rights information and education in human rights and their role in preventing and remedying human rights violations,

Believing that human rights education and training is essential to the effective realization of human rights and fundamental freedoms and contributes significantly by promoting equality, preventing conflict and human rights violations and abuses, and enhancing participation and democratic processes with a view to developing societies in which all human beings are valued and respected, without discrimination or distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling General Assembly resolution 70/254 of 12 February 2016, and taking note of the Secretary-General's Plan of Action to Prevent Violent Extremism, which identifies human rights education and training as a strategy for preventing and addressing violent extremism,

Welcoming the adoption of the 2030 Agenda for Sustainable Development, including Goal 4, target 7 thereof, and of the Education 2030 Framework for Action, and affirming the interlinkages and integrated nature of all Sustainable Development Goals and targets,

1. *Takes note with appreciation* of the midterm progress report on the implementation of the third phase of the World Programme for Human Rights Education prepared by the Office of the United Nations High Commissioner for Human Rights;[1]

2. *Notes with appreciation* the initiatives by all relevant stakeholders for the implementation of the third phase of the World Programme;

3. *Welcomes* the convening of the high-level panel discussion on the implementation of the United Nations Declaration on Human Rights Education and Training: good practices and challenges on 14 September 2016, and the summary report thereon prepared by the Office of the High Commissioner;[2]

4. *Encourages* States and all other stakeholders to strengthen the implementation of all phases of the World Programme for Human Rights Education;

[1] A/HRC/36/24.
[2] A/HRC/35/6.

5. *Welcomes* the efforts of the Office of the High Commissioner, the United Nations Educational, Scientific and Cultural Organization and Member States in advancing human rights education and training globally, including through the promotion of national implementation of the World Programme for Human Rights Education, methodological and training support, capacity-building and technical assistance;

6. *Urges* the High Commissioner and the United Nations Educational, Scientific and Cultural Organization to step up collaboration with States, upon request, in order to build their capacity for human rights education and training;

7. *Reiterates* the need to strengthen international cooperation and coordination in order to advance human rights education and training as a necessary tool for the promotion and protection of human rights, and encourages States to provide, upon request, technical support to countries willing to implement nationally the plans of action adopted in the context of the World Programme on Human Rights Education;

8. *Recognizes* that the adoption of the 2030 Agenda for Sustainable Development, which specifically includes human rights education under Goal 4, target 7, provides an opportunity for promoting human rights education, in accordance with the United Nations Declaration on Human Rights Education and Training and other existing global frameworks for action, including the World Programme for Human Rights Education, coordinated by the Office of the High Commissioner, and the global citizenship education programme of the United Nations Educational, Scientific and Cultural Organization, as well as other regional and national initiatives in the field, and stresses the need to promote synergies among them;

9. *Also recognizes* that the World Programme for Human Rights Education can contribute to the implementation of the 2030 Agenda for Sustainable Development, and encourages the Office of the High Commissioner, in cooperation with the United Nations Educational, Scientific and Cultural Organization, to continue to support States' efforts to implement the 2030 Agenda, including Goal 4, target 7 thereof;

10. *Requests* the Office of the High Commissioner to seek the views of States, national human rights institutions, civil society organizations and other relevant stakeholders on the target sectors, focus areas or thematic human rights issues for the fourth phase of the World Programme, bearing in mind possible synergies with the 2030 Agenda for Sustainable Development and other relevant initiatives on human rights education and training, and to submit a report thereon to the Human Rights Council at its thirty-ninth session.

39th meeting
28 September 2017

[Adopted without a vote.]

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36/13. Mental health and human rights

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Guided also by the Universal Declaration of Human Rights and by all relevant international human rights treaties, in particular, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities,

Reaffirming Human Rights Council resolution 32/18 of 1 July 2016 on mental health and human rights and Council resolutions on the rights of persons with disabilities,

Welcoming the Sustainable Development Goals, including Goal 3, on ensuring healthy lives and promoting well-being for all at all ages, its specific and interlinked targets and its close interlinkages with Goal 1, on eradicating poverty, and Goal 10, on reducing inequalities,

Underscoring that the full realization of human rights and fundamental freedoms for all contributes to the efforts to implement the Sustainable Development Goals, while recognizing that, inter alia, discrimination, stigma, corruption, violence and abuse are major obstacles in this regard,

Underscoring also that the implementation of the Sustainable Development Goals contributes to the full realization of human rights and fundamental freedoms for all,

Reaffirming that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing,

Reaffirming also that all human beings are born free and equal in dignity and rights, and recognizing that these rights derive from the inherent dignity of the human person,

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Reaffirming further that everyone has the right to life, liberty and security of person, the equal right to live independently and be included in the community and the right to equal recognition before the law, and that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Recalling the general principles reflected in the Convention on the Rights of Persons with Disabilities, namely respect for inherent dignity, individual autonomy and independence, and full and effective participation and inclusion in society,

Reaffirming the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and emphasizing that mental health is an integral part of that right,

Taking note of the work of the treaty bodies in relation to issues of mental health and human rights, including in the context of their general comments, in particular Committee on the Rights of Persons with Disabilities general comment No. 5 (2017) on living independently and being included in the community,

Reaffirming the right of everyone to be guaranteed the full enjoyment of their human rights and fundamental freedoms, without discrimination of any kind,

Deeply concerned that persons with mental health conditions or psychosocial disabilities, in particular persons using mental health services, may be subject to, inter alia, widespread discrimination, stigma, prejudice, violence, abuse, social exclusion and segregation, unlawful or arbitrary institutionalization, overmedicalization and treatment practices that fail to respect their autonomy, will and preferences,

Equally concerned that such practices may constitute or lead to violations and abuses of their human rights and fundamental freedoms, sometimes amounting to torture or other cruel, inhuman, or degrading treatment or punishment, and conscious that greater commitment is needed to address all remaining challenges in this regard,

Recognizing the need to protect, promote and respect all human rights in the global response to mental health-related issues, and stressing that mental health and community services should integrate a human rights perspective so as to avoid any harm to persons using them and to respect their dignity, integrity, choices and inclusion in the community,

Concerned at the instances of multiple, intersecting and aggravated forms of discrimination, stigma, violence and abuses that affect the enjoyment of human rights in the context of mental health, and recalling how important it is for States to adopt, implement, update, strengthen or monitor, as appropriate, laws, policies and practices to eradicate any form of discrimination, stigma, violence and abuse in this regard,

Recognizing the particularly important role that psychiatry and other mental health professions should have, alongside, inter alia, government institutions and services, actors within the justice system, including the penitentiary system, civil society organizations and national human rights institutions, in taking measures to ensure that practices in the field of mental health do not perpetuate stigma and discrimination or lead to violations or abuses of human rights,

Acknowledging that the Convention on the Rights of Persons with Disabilities laid the foundation for a paradigm shift in mental health and created the momentum for deinstitutionalization and the identification of a model of care based on respect for human rights that, inter alia, addresses the global burden of obstacles in mental health, provides effective mental health and community-based services and respects the enjoyment of legal capacity on an equal basis with others,

Reaffirming that the right to the enjoyment of the highest attainable standard of physical and mental health is an inclusive right, and reaffirming also the need to address issues related to health care and to the underlying determinants of health in this context,

Recalling that, according to the Constitution of the World Health Organization, health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity,

Concerned that there is a continuing lack of parity between physical and mental health reflected in the marginalization of mental health within health policies and budgets or in medical education, research and practice, and stressing the importance of investing more on mental health promotion through a multisectoral approach that is based on respect for human rights and that also addresses the underlying social, economic and environmental determinants of mental health,

Underscoring that States should ensure that persons with mental health conditions or psychosocial disabilities, in particular persons using mental health services, have access to a range of support services that are based on respect for human rights in order to live independently, be included in the community, exercise their autonomy and agency, participate meaningfully in and decide upon all matters affecting them and have their dignity respected, on an equal basis with others,

Reaffirming the right of refugees and migrants to the enjoyment of the highest attainable standard of physical and mental health, and underscoring the vulnerable situations that can have a negative impact on the mental health of persons on the move,

Recognizing that women and girls with mental health conditions or psychosocial disabilities at all ages, in particular those using mental health services, face an increased vulnerability to violence, abuse, discrimination and negative stereotyping, and underscoring the need to take all appropriate measures to ensure access to mental health and community services that are gender-sensitive,

Acknowledging that the multiple or aggravated forms of discrimination, stigma, violence and abuse often faced by people living with, presumed to be living with or affected by HIV/AIDS and by members of key populations have negative consequences on their enjoyment of the highest attainable standard of mental health,

Convinced that the Human Rights Council, in fulfilling its responsibility to promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner, has an important role to play in the area of mental health and human rights, to foster constructive international dialogue and cooperation, and to promote human rights education and learning, and also advisory services, technical assistance, capacity-building and awareness-raising,

Acknowledging the leadership of the World Health Organization in the field of health and also the work that it has carried out to date to, inter alia, integrate a human rights perspective into mental health, and recalling the commitment of States to achieve this through the implementation of the Organization's comprehensive mental health action plan 2013-2020,

1. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights on mental health and human rights;[1]

[1] A/HRC/34/32.

2. *Also takes note with appreciation* of the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on the right of everyone to mental health;[2]

3. *Further takes note with appreciation* of the report of the Special Rapporteur on the rights of person with disabilities on the provision of different forms of rights-based support for persons with disabilities, including access to adequate decision-making support when seeking to make informed health-related choices;[3]

4. *Reaffirms* the obligation of States to protect, promote and respect all human rights and fundamental freedoms and to ensure that policies and services related to mental health comply with international human rights norms;

5. *Urges* States to take active steps to fully integrate a human rights perspective into mental health and community services, and to adopt, implement, update, strengthen or monitor, as appropriate, all existing laws, policies and practices with a view to eliminating all forms of discrimination, stigma, prejudice, violence, abuse, social exclusion and segregation within that context, and to promote the right of persons with mental health conditions or psychosocial disabilities to full inclusion and effective participation in society, on an equal basis with others;

6. *Also urges* States to address the underlying social, economic and environmental determinants of health and to address holistically the range of barriers arising from inequality and discrimination that impede the full enjoyment of human rights in the context of mental health;

7. *Encourages* States to take concrete steps towards recognizing the importance of addressing mental health by, inter alia, promoting the participation of all stakeholders in the development of public policies in this regard, promoting prevention and training programmes for social, health and other relevant professionals, integrating mental health services into primary and general health care, and providing effective mental health and other community-based services that protect, promote and respect the enjoyment of the rights to liberty and security of person and to live independently and be included in the community, on an equal basis with others;

8. *Calls upon* States to abandon all practices that fail to respect the rights, will and preferences of all persons, on an equal basis, and that lead to power imbalances, stigma and discrimination in mental health settings;

9. *Urges* States to develop community-based, people-centred services and supports that do not lead to overmedicalization and inappropriate treatments in, inter alia, the fields of clinical practice, policy, research, medical education and investment, and that do not fail to respect the autonomy, will and preferences of all persons;

10. *Calls upon* States to take all the measures necessary to ensure that health professionals provide care of the same quality to persons with mental health conditions or psychosocial disabilities, in particular persons using mental health services, as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of these persons through training and the promulgation of ethical standards for public and private health care;

11. *Strongly encourages* States to support persons with mental health conditions or psychosocial disabilities to empower themselves in order to know and demand their

[2] A/HRC/35/21.
[3] A/HRC/34/58.

rights, including through health and human rights literacy, to provide human rights education and training for health workers, police, law enforcement officers, prison staff and other relevant professions, with a special focus on non-discrimination, free and informed consent and respect for the will and preferences of all, confidentiality and privacy, and to exchange best practices in this regard,

12. *Encourages* States to promote the effective, full and meaningful participation of persons with mental health conditions or psychosocial disabilities and their organizations in the design, implementation and monitoring of law, policies and programmes relevant to realizing the right of everyone to the enjoyment of the highest attainable standard of mental health,

13. *Recognizes* the need to promote the mainstreaming of a human rights perspective into mental health in all relevant public policies,

14. *Encourages* States to provide technical support and capacity-building through international cooperation to countries that develop and implement policies, plans, laws and services that promote and protect the human rights of persons with mental health conditions or psychosocial disabilities, in accordance with the present resolution, in consultation with and with the consent of the countries concerned,

15. *Requests* the High Commissioner to organize a consultation lasting one and a half days, no later than during the seventy-first session of the World Health Assembly, to discuss all relevant issues and challenges pertaining to the fulfilment of a human rights perspective in mental health, the exchange of best practices and the implementation of technical guidance in this regard, including the initiatives of the World Health Organization on mental health and human rights, such as QualityRights;

16. *Also requests* the High Commissioner to provide the above-mentioned consultation with all the services and facilities necessary to fulfil its activities, including by making the discussions fully accessible to persons with disabilities;

17. *Further requests* the High Commissioner to invite to the consultation Member States and all other stakeholders, including relevant United Nations bodies, agencies, funds and programmes, in particular the World Health Organization, the special procedures, in particular the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the rights of persons with disabilities and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the treaty bodies, national human rights institutions and civil society, including persons with mental health conditions or psychosocial disabilities, in particular persons using mental health services, and their organizations;

18. *Requests* the High Commissioner to prepare a report on the outcome of the consultation, to be presented to the Human Rights Council at its thirty-ninth session, in which he identifies strategies to promote human rights in mental health and to eliminate discrimination, stigma, violence, coercion and abuse in this regard, including through education and the training of all stakeholder groups;

19. *Decides* to remain seized of the matter.

38th meeting
20 September 2017

[Adopted without a vote.]

United Nations A/HRC/RES/36/14

General Assembly

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10 October 2017

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Thirty-sixth session
11–29 September 2017
Agenda item 3

Resolution adopted by the Human Rights Council on 28 September 2017

36/14. Human rights and indigenous peoples

The Human Rights Council,

Recalling all relevant General Assembly, Commission on Human Rights and Human Rights Council resolutions on human rights and indigenous peoples,

Reaffirming its support for the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in its resolution 61/295 of 13 September 2007,

Recognizing that, for the past 10 years, the United Nations Declaration on the Rights of Indigenous Peoples has influenced positively the drafting of several constitutions and statutes at the national and local levels and contributed to the progressive development of international and domestic legal frameworks and policies as it applies to indigenous peoples,

Appreciating the current efforts towards the promotion, protection and fulfilment of the rights of indigenous peoples, recalling the commitment made by the General Assembly at the World Conference of Indigenous Peoples to consider ways to enhance the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, and welcoming resolution 71/321, adopted by the Assembly on 8 September 2017,

Recalling the adoption in September 2014 of the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples,[1]

Taking note with appreciation of the study of the Expert Mechanism on the Rights of Indigenous Peoples on the theme "Good practices and challenges, including discrimination, in business and in access to financial services by indigenous peoples, in particular indigenous women and indigenous persons with disabilities", submitted to the

[1] General Assembly resolution 69/2.

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Human Rights Council at its thirty-sixth session,[2] and encouraging all parties to consider the examples of good practices and recommendations included in the study as practical advice on how to attain the end goals of the United Nations Declaration on the Rights of Indigenous Peoples,

Taking note with appreciation also of the report of the Expert Mechanism entitled "Ten years of the implementation of the United Nations Declaration on the Rights of Indigenous Peoples: good practices and lessons learned — 2007-2017",[3]

Stressing the need to pay particular attention to the rights and special needs of indigenous women, children, young people, elderly persons and persons with disabilities and to intensify efforts to prevent and eliminate violence and multiple and intersecting forms of discrimination in this regard, as set out in the United Nations Declaration on the Rights of Indigenous Peoples and the outcome document of the World Conference,

Recalling the adoption of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) by the International Labour Organization, and its important contribution to the promotion and protection of the rights of indigenous peoples,

1. *Welcomes* the report of the United Nations High Commissioner for Human Rights on the rights of indigenous peoples,[4] and requests the High Commissioner to continue to submit to the Human Rights Council an annual report on the rights of indigenous peoples containing information on relevant developments in human rights bodies and mechanisms and the activities undertaken by the Office of the High Commissioner at Headquarters and in the field that contribute to the promotion of, respect for and the full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples, and follow-up on the effectiveness of the Declaration;

2. *Also welcomes* the work of the Special Rapporteur on the rights of indigenous peoples, including the official visits made and her reports, and encourages all Governments to respond favourably to her requests for visits;

3. *Further welcomes* the work of the Expert Mechanism on the Rights of Indigenous Peoples, and the report on its tenth session,[5] and its intersessional activities, including the intersessional meetings held in Ottawa and in Khanti-Mansi Autonomous Okrug – Yugra, Russian Federation, in March 2017;

4. *Encourages* States to participate actively in the sessions of the Expert Mechanism and to engage in dialogue with it, including during its intersessional activities;

5. *Notes* that the next study of the Expert Mechanism, to be finalized by its eleventh session, will focus on the theme of free, prior and informed consent as reflected in the United Nations Declaration on the Rights of Indigenous Peoples;

6. *Welcomes* the proposal by the Expert Mechanism to the Human Rights Council that further efforts be made to facilitate the participation of indigenous peoples' representatives and institutions in the work of the Council, in particular the dialogue with the Expert Mechanism and the Special Rapporteur and in the annual half-day discussion on the rights of indigenous peoples, and also welcomes the encouragement of the General Assembly to the relevant United Nations bodies, in accordance with their respective rules of procedure, to facilitate the participation of indigenous peoples' representatives and institutions in relevant meetings on issues affecting them;

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[2] A/HRC/36/53.
[3] A/HRC/36/56.
[4] A/HRC/36/22.
[5] A/HRC/36/57.

7. *Decides*, in accordance with paragraph 14 of Human Rights Council resolution 18/8 of 29 September 2011, that the theme of the annual half-day panel discussion on the rights of indigenous peoples to be held during the thirty-ninth session of the Council will be on the means of participation for and the inclusion of indigenous peoples in the development of strategies and projects, and the implementation of those projects in the context of the 2030 Agenda for Sustainable Development and related Goals, and requests the Office of the High Commissioner to make the discussions fully accessible to persons with disabilities, and to prepare a summary report on the discussion and to submit it to the Council prior to its forty-first session;

8. *Encourages* States to give due consideration to the rights of indigenous peoples and the multiple and intersecting forms of discrimination faced by indigenous peoples and individuals in fulfilling the commitments undertaken in the 2030 Agenda and in the elaboration of relevant international and regional programmes, as well as national action plans, strategies and programmes, applying the principle of leaving no one behind;

9. *Encourages* the Special Rapporteur, the Permanent Forum on Indigenous Issues and the Expert Mechanism to strengthen their ongoing cooperation and coordination and ongoing efforts to promote the rights of indigenous peoples and the United Nations Declaration on the Rights of Indigenous Peoples, including the follow-up to the World Conference, and invites them to continue to work in close cooperation with all Human Rights Council mechanisms within their respective mandates;

10. *Reaffirms* that the United Nations treaty bodies are important mechanisms for the promotion and protection of human rights, and encourages States to give serious consideration to their recommendations, including those regarding indigenous peoples;

11. *Welcomes* the contribution of the universal periodic review to the realization of the rights of indigenous peoples, encourages effective follow-up to accepted review recommendations concerning indigenous peoples, and invites States to include, as appropriate, information on the situation of the rights of indigenous peoples, including measures taken to pursue the objectives of the United Nations Declaration on the Rights of Indigenous Peoples during the review;

12. *Encourages* States that have endorsed the United Nations Declaration on the Rights of Indigenous Peoples to adopt measures to pursue its objectives in consultations and cooperation with indigenous peoples;

13. *Calls upon* States that that have not yet ratified or acceded to the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization to consider doing so;

14. *Welcomes* the role of national human rights institutions established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) in advancing indigenous issues, and recognizes the importance for such institutions of developing and strengthening their capacities, as appropriate, to fulfil that role effectively;

15. *Encourages* States, according to their relevant national context and characteristics, to collect and disseminate data disaggregated by ethnicity, income, gender, age, race, migratory status, disability, geographic location or other factors, as appropriate, in order to monitor and improve the impact of development policies, strategies and programmes aimed at improving the well-being of indigenous peoples and individuals, and to combat and eliminate violence and multiple and intersecting forms of discrimination against them;

16. *Welcomes* the agreed conclusions of the Commission on the Status of Women adopted at its sixty-first session, in which the Commission called for measures to

be taken to promote the economic empowerment of indigenous women, including by ensuring access to quality and inclusive education and through meaningful participation in the economy by addressing the multiple and intersecting forms of discrimination and barriers they face, including violence, and to promote their participation in relevant decision-making processes at all levels and in all areas, while respecting and protecting their traditional and ancestral knowledge, and noting the importance for indigenous women and girls of the United Nations Declaration on the Rights of Indigenous Peoples, and encourages States to give serious consideration to the above-mentioned recommendations, as appropriate;

17. *Also welcomes* the proclamation by the General Assembly that 2019 will be the International Year of Indigenous Languages,[3] and encourages States to participate actively in the organization and implementation of activities relating to the International Year and to uphold the spirit of the International Year by taking measures to promote and protect the right of indigenous peoples to preserve and develop their languages;

18. *Notes* the activity of the United Nations Indigenous Peoples Partnership and the system-wide action plan for ensuring a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples, and invites States and other potential donors to support it;

19. *Urges* States and invites other public and/or private actors or institutions to contribute to the United Nations Voluntary Fund for Indigenous Peoples as an important means of promoting the rights of indigenous peoples worldwide and within the United Nations system;

20. *Decides* to continue its consideration of this question at a future session in conformity with its annual programme of work.

30th meeting
29 September 2017

[Adopted without a vote.]

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[3] See General Assembly resolution 71/178.

United Nations A/HRC/RES/36/15

General Assembly

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Original: French

Human Rights Council
Thirty-sixth session
11-29 September 2017
Agenda item 3

Resolution adopted by the Human Rights Council on 28 September 2017

36/15. Mandate of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Vienna Declaration and Programme of Action and the Declaration on the Right to Development,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

Recalling its resolution 5/1 on institution-building of the Human Rights Council and resolution 5/2 on the Code of Conduct for Special Procedures Mandate Holders of the Council, both of 18 June 2007, and emphasizing that the mandate holder is to discharge his or her duties in accordance with those resolutions and the annexes thereto,

Recalling also its resolutions 9/1 of 24 September 2008, 18/11 of 29 September 2011, 21/17 of 27 September 2012 and 27/23 of 26 September 2014 and all the resolutions of the Commission on Human Rights on this subject,

Recalling further General Assembly resolution 70/1 of 25 September 2015, welcoming the adoption of the 2030 Agenda for Sustainable Development, including Goal 12, target 12.4, thereof, to achieve, by 2020, the environmentally sound management of chemicals and hazardous wastes throughout their life cycle, in accordance with international standards, and affirming the interlinkages and integrated nature of all the Sustainable Development Goals,

1. *Welcomes* the work carried out, in accordance with his mandate, by the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, and takes note of his report submitted to the Human Rights Council at its thirty-sixth session;[1]

2. *Takes note* of the guidelines for good practices prepared by the Special Rapporteur as presented in the report, and requests the Special Rapporteur, in accordance with his mandate, to continue to provide detailed, up-to-date information on the adverse

[1] A/HRC/36/41.

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consequences that the management and disposal of hazardous substances and wastes in an unlawful manner may have in terms of the full enjoyment of human rights;

3. *Decides* to extend the mandate of the Special Rapporteur for a period of three years, and invites him to report to the Human Rights Council in accordance with its programme of work and annually to the General Assembly;

4. *Encourages* the Special Rapporteur to continue his close cooperation with the United Nations Environment Programme, relevant United Nations specialized agencies, such as the World Health Organization and the International Labour Organization, and the secretariats of the international environmental conventions with a view to mainstreaming human rights into their work and to avoiding duplication;

5. *Urges* the Special Rapporteur to continue his consultations with the competent United Nations agencies and bodies and with the secretariats of the relevant international conventions as part of a multidisciplinary, in-depth approach for addressing existing problems with a view to finding lasting solutions for the management of such substances and wastes so that he may present to the Human Rights Council, in accordance with its programme, annual reports on the implementation of the resolutions that it has adopted, as well as specific recommendations and proposals concerning the steps that should be taken immediately in order to address the adverse implications for human rights of hazardous substances and wastes;

6. *Encourages* all States, United Nations agencies and other relevant international organizations, civil society actors, including non-governmental organizations, as well as the public and the private sector and all other relevant stakeholders to engage in a process of consultation, dialogue and cooperation with the Special Rapporteur to enable him to update, before the end of his mandate, the guidelines for good practices to promote the full enjoyment of human rights by the environmentally sound management and disposal of hazardous substances and wastes;

7. *Requests* the Special Rapporteur to inform States, United Nations agencies and other relevant international organizations, civil society and other stakeholders of the impact on human rights of the environmentally sound management and disposal of hazardous substances and wastes, including in the implementation of the 2030 Agenda for Sustainable Development, to seek views and contributions from Governments, United Nations agencies and other relevant international organizations, civil society and other relevant stakeholders in accordance with his mandate, to investigate national, regional and international efforts in respect of the Sustainable Development Goals and to undertake thematic research on the effective implementation of the 2030 Agenda;

8. *Encourages* the Special Rapporteur, in accordance with his mandate and with support and assistance from the Office of the United Nations High Commissioner for Human Rights, to continue to provide Governments with appropriate opportunities to respond to allegations that are transmitted to him and are referred to in his report and to have their observations reflected in his report to the Human Rights Council;

9. *Reiterates* its appeal to States and other stakeholders to facilitate the work of the Special Rapporteur by providing him with information and inviting him to undertake country visits;

10. *Reiterates* its appeal to the Secretary-General and to the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all necessary assistance for the successful fulfilment of his mandate;

11. *Decides* to continue its consideration of this matter under the same agenda item in accordance with its programme of work.

39th meeting
28 September 2017

[Adopted without a vote.]

United Nations A/HRC/RES/36/16

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Resolution adopted by the Human Rights Council on 29 September 2017

36/16. Human rights in the administration of justice, including juvenile justice

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights and all relevant international treaties, including the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto, as well as the International Convention for the Protection of All Persons from Enforced Disappearance, and encouraging all States that have not ratified or acceded to the aforementioned treaties to consider doing so expeditiously,

Bearing in mind the numerous other international standards and norms in the field of the administration of justice, in particular of juvenile justice, including the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Basic Principles for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Guidelines for Action on Children in the Criminal Justice System, the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the Bangalore Principles of Judicial Conduct the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,

Recalling all resolutions of the Commission on Human Rights, the Human Rights Council, the General Assembly and the Economic and Social Council relevant to the subject, in particular Human Rights Council resolutions 30/7 of 1 October 2015, General

Assembly resolutions 71/188 of 19 December 2016 and Economic and Social Council resolution 2017/19 of 6 July 2017,

Recalling also Human Rights Council resolution 31/13 of 23 March 2016 on the rights of persons belonging to national or ethnic, religious and linguistic minorities, focusing on minorities in the criminal justice system,

Noting with appreciation the work of all special procedures of the Human Rights Council that addresses human rights in the administration of justice in the discharge of their mandates,

Noting with interest the work of all human rights treaty body mechanisms on human rights in the administration of justice, in particular the adoption by the Human Rights Committee of its general comments No. 21 (1992), on humane treatment of prisoners deprived of their liberty, No. 32 (2007), on the right to equality before courts and tribunals and to a fair trial, and No. 35 (2014), on liberty and security of person, noting with interest also the adoption by the Committee on the Rights of the Child of its general comments No. 10 (2007), on children's rights in juvenile justice, and No. 13 (2011), on the right of the child to freedom from all forms of violence, and noting with interest further the adoption by the Committee on the Elimination of Racial Discrimination of its general recommendation No. 31 (2005), on the prevention of racial discrimination in the administration and functioning of the criminal justice system, and the adoption by the Committee on the Elimination of Discrimination against Women of its general recommendation No. 33 (2015), on women's access to justice,

Noting with appreciation the important work in the field of the administration of justice of the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime, the United Nations Children's Fund, the United Nations Development Programme, the Special Representative of the Secretary-General on Violence against Children and the Special Representative of the Secretary-General on Children and Armed Conflict,

Convinced that the independence and impartiality of the judiciary, and the integrity of the judicial system and an independent legal profession are essential prerequisites for the protection of human rights, the rule of law, good governance and democracy, and for ensuring that there is no discrimination in the administration of justice, and should therefore be respected in all circumstances,

Underlining the importance of implementing the 2030 Agenda for Sustainable Development, and recognizing the role of its goals relating to gender equality (Goal 5), reducing inequality within and among countries (Goal 10) and the promotion of just, peaceful and inclusive societies (Goal 16) for eliminating discrimination in the administration of justice,

Emphasizing that the right of access to justice for all, including access to legal aid, forms an important basis for strengthening the rule of law through the administration of justice, and acknowledging the contribution of other actors, including lawyers' associations and civil society, in providing legal aid,

Recalling that every State should provide an effective framework in which to pursue remedies to redress human rights violations or grievances and to challenge the lawfulness of detention before a court,

Emphasizing that the social rehabilitation and reintegration of prisoners should be among the essential aims of the criminal justice system so as to ensure, as far as possible, that offenders are willing and able to lead a law-abiding and self-supporting life upon their return to society,

Recognizing the importance of the principle that, except for those lawful limitations that are demonstrably necessitated by incarceration, persons deprived of their liberty retain their non-derogable human rights and all other human rights and fundamental freedoms,

Concerned about the negative impact of overincarceration and overcrowding on the enjoyment of human rights, and acknowledging that overincarceration constitutes one of the major underlying causes of overcrowding,

Underlining that prejudice and discrimination against persons belonging to vulnerable groups in the administration of justice may result in their overincarceration and overrepresentation throughout the criminal justice system, and recognizing the need for States to take measures, within the justice system, particularly the criminal justice system, to prevent discrimination against them and to enhance inclusive and representative institutions,

Aware of the need for special vigilance and safeguards with regard to the specific situation of suspects and offenders who are children, juveniles, women, persons belonging to national or ethnic, religious and linguistic minorities and other persons with increased vulnerability in the administration of justice, in particular while they are deprived of their liberty, and their vulnerability to violence, abuse, injustice and humiliation,

Recognizing that women in detention or imprisonment have certain different needs, including different health-care needs, and in this context noting the importance of gender-sensitive justice systems,

Encouraging continued regional and cross-regional efforts, the sharing of best practices and the provision of technical assistance in the field of juvenile justice, recalling in this regard the holding of the World Congress on Juvenile Justice in Geneva from 26 to 30 January 2015, and noting with interest its final declaration,

Reaffirming that the best interests of the child must be a primary consideration in all decisions concerning the deprivation of liberty and, in particular, that depriving children and juveniles of their liberty should be used only as a measure of last resort and for the shortest appropriate period of time, in particular before trial, and the need to ensure that, if they are arrested, detained or imprisoned, children should be separated from adults to the greatest extent feasible, unless it is considered in the child's best interest not to be,

Reaffirming also that the best interests of the child are an important consideration in all matters concerning the child and related to the sentencing of his or her parents or, where applicable, legal guardians or primary caregivers,

1. *Notes with appreciation* the report of the United Nations High Commissioner for Human Rights on non-discrimination and the protection of persons with increased vulnerability in the administration of justice, in particular in situations of deprivation of liberty and with regard to the causes and effects of overincarceration and overcrowding;[1]

2. *Reaffirms* the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;

3. *Calls upon* States to spare no effort in providing for effective legislative, judicial, social, educative and other relevant mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards, and invites them to assess their national legislation and practice in accordance with those standards;

[1] A/[illegible]/[illegible]/70.

4. *Invites* States to take into consideration the issue of human rights in the administration of justice in the universal periodic review procedure;

5. *Invites* Governments to include in their efforts to implement the 2030 Agenda for Sustainable Development and their national development plans the administration of justice as an integral part of the development process, and to allocate adequate resources for fair and effective justice systems, including the provision of legal aid services with a view to promoting and protecting human rights, and to address gender inequality, and invites the international community to provide an increased level of both technical and financial assistance to States and to respond favourably to their requests for capacity-building, and enhancement and strengthening of institutions concerned with the administration of justice;

6. *Stresses* the special need for continuous national capacity-building in the field of the administration of justice, including through reform of the judiciary, the police, prosecution and the penal system, as well as juvenile justice reform, and promoting women's effective participation and equal opportunities in the judiciary and a composition of law enforcement bodies that reflects the diversity of the population;

7. *Reaffirms* that no one should be unlawfully or arbitrarily deprived of his or her liberty, and notes the principles of necessity and proportionality in this regard;

8. *Calls upon* States to apply individual criminal responsibility and to refrain from detaining persons solely on the basis of their family ties with an alleged offender;

9. *Also calls upon* States to ensure that anyone who is deprived of his or her liberty has prompt access to a competent court with the effective power to determine the lawfulness of the detention, and to order release if the detention or imprisonment is determined not to be lawful by that court, as well as prompt access to legal counsel, in accordance with their international obligations and commitments;

10. *Urges* all States to consider establishing, maintaining or enhancing independent mechanisms with the mandate to monitor all places of detention, including by making unannounced visits, and to hold private interviews without witnesses with all persons deprived of their liberty;

11. *Calls upon* States to ensure a proper file and data management system on prisoners that allows the tracking of the number of persons deprived of their liberty, their detention period, offences or grounds for detention, and developments regarding the prison population, and encourages States to collect other up-to-date, comprehensive and disaggregated data that allow for the identification and prevention of discrimination in the administration of justice and overincarceration;

12. *Recalls* the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment in international law, and calls upon States to address and prevent detention conditions of persons deprived of their liberty that amount to torture or cruel, inhuman or degrading treatment or punishment;

13. *Calls upon* States to investigate promptly, effectively and impartially all alleged human rights violations and abuses suffered by persons deprived of their liberty, in particular cases involving death, torture and cruel, inhuman or degrading treatment or punishment, to provide effective remedies to the victims, and to ensure that detention administrations cooperate fully with the investigating authority and preserve all evidence;

14. *Encourages* States to address overcrowding in detention facilities by taking effective measures, including by enhancing the availability and use of alternatives to pretrial detention and custodial sentences, access to legal aid, mechanisms for crime prevention, early release and rehabilitation programmes and the efficiency and capacity of the criminal justice system and its facilities, and to make use in this regard of, inter alia, the

United Nations Office on Drugs and Crime Handbook on strategies to reduce overcrowding in prisons;

18. *Urges* States to take all necessary measures to prevent and eliminate discrimination in law and in practice against persons belonging to vulnerable groups in the administration of justice that may also result in their overincarceration and overrepresentation throughout the criminal justice process;

19. *Also urges* States to pay special attention to the conditions of detention or imprisonment of persons with increased vulnerability and their particular needs;

20. *Calls upon* States to review penal policies that can contribute to overincarceration and overcrowding, in particular regarding so-called "zero-tolerance policies", such as the application of mandatory pretrial detention and mandatory minimum sentences, especially for minor and/or non-violent crimes;

21. *Urges* States to endeavour to reduce pretrial detention, which should be a measure of last resort and for as short a period as possible, by, inter alia, adopting legislative and administrative measures and policies on its preconditions, limitations, duration and alternatives, and by taking measures aimed at implementing existing legislation, as well as by ensuring access to justice and legal advice and assistance;

22. *Underscores* the particular importance of providing appropriate training in the administration of justice, including for prosecutorial and judicial authorities, with a view to raising awareness of and eliminating prejudice and discrimination, ensuring proportionate sentencing and enhancing the implementation of non-custodial measures at the pretrial and post-conviction stages;

23. *Recognizes* that every child and juvenile alleged as, accused of or recognized as having infringed the law, particularly those who are deprived of their liberty, as well as child victims and witnesses of crimes, should be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law, bearing in mind relevant international standards on human rights in the administration of justice and taking into account the age, gender, social circumstances and development needs of such children, and calls upon States parties to the Convention on the Rights of the Child to abide strictly by its principles and provisions;

24. *Urges* States to consider applying the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, as appropriate, in the design, implementation, monitoring and evaluation of laws, policies, programmes, budgets and mechanisms aimed at eliminating violence against children in the field of crime prevention and criminal justice, and encourages them to support and to benefit from the programme proposed by the United Nations Office on Drugs and Crime and the United Nations Children's Fund in this regard;

25. *Encourages* States that have not yet integrated children's issues into their overall rule of law efforts to do so, and to develop and implement a comprehensive juvenile justice policy to prevent and address juvenile delinquency as well as with a view to promoting, inter alia, the use of alternative measures, such as diversion and restorative justice, and ensuring compliance with the principle that the deprivation of a child's liberty should only be used as a measure of last resort, for the shortest appropriate period of time, and that such decisions must be subject to periodic review of their continuing necessity and appropriateness, and to avoid, wherever possible, the use of pretrial detention for children;

26. *Urges* States to systematically integrate children's access to justice into justice sector reforms, rule of law initiatives and national planning processes, such as national development plans and justice sector-wide approaches, and to support it through the national budget;

24. *Encourages* States not to set the minimum age of criminal responsibility at too low an age, bearing in mind the emotional, mental and intellectual maturity of the child, and in this respect refers to the recommendation of the Committee on the Rights of the Child to increase their lower minimum age of criminal responsibility, without exception, to 12 years, as the absolute minimum age, and to continue to raise the lower limit to a higher age;

25. *Urges* States to ensure that, under their legislation and practice, neither capital punishment nor life imprisonment are imposed for offences committed by persons under 18 years of age;

26. *Calls upon* States to consider establishing or strengthening existing independent and child-friendly national monitoring and complaints mechanisms so as to contribute to safeguarding the rights of children deprived of their liberty;

27. *Welcomes* the work on the in-depth global study on children deprived of liberty,[2] and encourages Member States, United Nations agencies, funds, programmes and offices, and other relevant stakeholders, to support the elaboration of the study;

28. *Invites* States to provide for human rights training on the administration of justice and juvenile justice, including anti-racist, anti-discrimination, multicultural, gender-sensitive and child rights training, for all judges, lawyers, prosecutors, social workers, immigration, correction and police officers, and other professionals working in the administration of justice;

29. *Also invites* States, upon their request, to benefit from the technical advice and assistance provided by the relevant United Nations agencies and programmes in order to strengthen their national capacities and infrastructures in the field of the administration of justice, including in addressing overcrowding, overincarceration and violence against children in the field of crime prevention and criminal justice;

30. *Calls upon* relevant special procedures of the Human Rights Council to pay special attention to questions relating to the effective protection of human rights in the administration of justice, including juvenile justice and the human rights of persons deprived of their liberty, and the causes and effects of overincarceration and overcrowding, and to provide, wherever appropriate, specific recommendations in this regard, including proposals for advisory services and technical assistance measures;

31. *Invites* States, when reviewing progress made in the implementation of the 2030 Agenda for Sustainable Development, to consider the causes and effects of overincarceration and overcrowding, including with regard to non-discrimination and persons with increased vulnerability in the administration of justice;

32. *Calls upon* the United Nations High Commissioner for Human Rights to strengthen advisory services and technical assistance relating to national capacity-building in the field of the administration of justice, in particular juvenile justice;

33. *Requests* the High Commissioner to submit to the Human Rights Council, at its forty-second session, a report on human rights in the administration of justice, in particular on violence, death and serious injury in situations of deprivation of liberty, drawing on the experience of United Nations and regional human rights mechanisms and seeking the views of States, including on their policies and best practices, civil society, and other relevant stakeholders;

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[2] See General Assembly resolution 69/157, para. 52 (*d*).

34. *Decides* to continue its consideration of this issue under the same agenda item, in accordance with its annual programme of work.

40th meeting
29 September 2017

[Adopted without a vote.]

United Nations A/HRC/RES/36/17

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Human Rights Council
Thirty-sixth session
11–29 September 2017
Agenda item 3

Resolution adopted by the Human Rights Council on 29 September 2017

36/17. The question of the death penalty

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and all other relevant international human rights instruments, and reaffirming that all States must implement their obligations under international human rights law,

Recalling also the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty,

Recalling further General Assembly resolutions 62/149 of 18 December 2007, 63/168 of 18 December 2008, 65/206 of 21 December 2010, 67/176 of 20 December 2012, 69/186 of 18 December 2014 and 71/187 of 19 December 2016 on the question of a moratorium on the use of the death penalty,

Reaffirming the safeguards guaranteeing the protection of persons facing the death penalty set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984, and the provisions regarding the implementation of the guidelines contained in Council resolutions 1989/64 of 24 May 1989 and 1996/15 of 23 July 1996,

Recalling all resolutions of the Commission on Human Rights on the question of the death penalty, the last of which was resolution 2005/59 of 20 April 2005,

Recalling also Human Rights Council decision 18/117 of 28 September 2011 on reporting by the Secretary-General on the question of the death penalty, Council resolution 22/11 of 21 March 2013 on a panel on the human rights of children of parents sentenced to the death penalty or executed, Council decision 22/117 of 21 March 2013 on a high-level panel discussion on the question of the death penalty and Council resolutions 26/2 of 26 June 2014 and 30/5 of 1 October 2015 on the question of the death penalty,

Taking note of the reports of the Secretary-General on the question of the death penalty, in the latest of which the Secretary-General examined the disproportionate impact of the use of the death penalty on poor or economically vulnerable individuals, foreign

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nationals, individuals exercising the rights to freedom of religion or belief and freedom of expression, and the discriminatory use of the death penalty against persons belonging to racial and ethnic minorities, its discriminatory use based on gender or sexual orientation, and its use against individuals with mental or intellectual disabilities,[1]

Mindful of the work of special procedure mandate holders who have addressed human rights issues related to the death penalty, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers and the Working Group on the issue of discrimination against women in law and in practice,

Mindful also of the work undertaken by the treaty bodies to address human rights issues related to the death penalty,

Recalling general recommendation No. 35 on gender-based violence against women recently adopted by the Committee on the Elimination of Discrimination against Women, in which the Committee recommended that States parties to the Convention repeal all criminal provisions that affect women disproportionally, including those resulting in the discriminatory application of the death penalty to women,

Recalling also general recommendation No. 31 of the Committee on the Elimination of Racial Discrimination on the prevention of racial discrimination in the administration and functioning of the criminal justice system,

Recognizing the role of regional and subregional instruments and initiatives towards the abolition of the death penalty, which in some cases have led to the prohibition of the use of the death penalty,

Welcoming the fact that many States are applying a moratorium on the use of the death penalty,

Noting that States with different legal systems, traditions, cultures and religious backgrounds have abolished the death penalty or are applying a moratorium on its use,

Strongly deploring the fact that the use of the death penalty leads to violations of the human rights of the persons facing the death penalty and of other affected persons,

Acknowledging the report of the United Nations High Commissioner for Human Rights on the high-level panel discussion on the question of the death penalty,[2] during which it was concluded that a significant number of States hold that the death penalty is a form of torture or other cruel, inhuman or degrading treatment or punishment,

Deploring the fact that, frequently, poor and economically vulnerable persons and foreign nationals are disproportionately subjected to the death penalty, that laws carrying the death penalty are used against persons exercising their rights to freedom of expression, thought, conscience, religion or peaceful assembly and association, and that persons belonging to religious or ethnic minorities are disproportionately represented among those sentenced to the death penalty,

Condemning in particular the use of the death penalty against persons with mental or intellectual disabilities, persons below 18 years of age at the time of the commission of the crime, and pregnant women,

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[1] A/HRC/36/26.

[2] A/HRC/36/27.

Condemning the imposition of the death penalty as a sanction for specific forms of conduct, such as apostasy, blasphemy, adultery and consensual same-sex relations, and expressing serious concern that the application of the death penalty for adultery is disproportionately imposed on women,

Recalling that, particularly in capital cases, States are required to provide adequate assistance of counsel at every stage of proceedings, including during detention and arrest,

Emphasizing that access to consular assistance for foreign nationals, provided for in the Vienna Convention on Consular Relations, is an important aspect of the protection of those facing the death penalty abroad,

Emphasizing also that lack of transparency in the use of the death penalty has direct consequences for the human rights of the persons sentenced to death as well as for other affected persons,

Acknowledging the interest in studying the question of the death penalty, as well as in holding local, national, regional and international debates related thereto,

1. *Urges* all States to protect the rights of persons facing the death penalty and other affected persons by complying with their international obligations, including the rights to equality and non-discrimination;

2. *Calls upon* States that have not yet acceded to or ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty to consider doing so;

3. *Calls upon* States that have not yet abolished the death penalty to ensure that it is not applied on the basis of discriminatory laws or as a result of discriminatory or arbitrary application of the law;

4. *Calls upon* States to ensure that all accused persons, in particular poor and economically vulnerable persons, can exercise their rights related to equal access to justice, to ensure adequate, qualified and effective legal representation at every stage of civil and criminal proceedings in capital punishment cases through effective legal aid, and to ensure that those facing the death penalty can exercise their right to seek pardon or commutation of their death sentence;

5. *Urges* States that have not yet abolished the death penalty to ensure that the death penalty is not applied against persons with mental or intellectual disabilities and persons below 18 years of age at the time of the commission of the crime, as well as pregnant women;

6. *Also urges* States that have not yet abolished the death penalty to ensure that it is not imposed as a sanction for specific forms of conduct such as apostasy, blasphemy, adultery and consensual same-sex relations;

7. *Calls upon* States to comply with their obligations under article 36 of the Vienna Convention on Consular Relations, and to inform foreign nationals of their right to contact the relevant consular post;

8. *Also calls upon* States to undertake further studies to identify the underlying factors that contribute to the substantial racial and ethnic bias in the application of the death penalty, where they exist, with a view to developing effective strategies aimed at eliminating such discriminatory practices;

9. *Calls upon* States that have not yet abolished the death penalty to make available relevant information, disaggregated by gender, age, nationality and other applicable criteria, with regard to their use of the death penalty, inter alia, the charges, number of persons sentenced to death, the number of persons on death row, the number of

executions carried out and the number of death sentences reversed, commuted on appeal or in which amnesty or pardon has been granted, as well as information on any scheduled execution, which can contribute to possible informed and transparent national and international debates, including on the obligations of States with regard to the use of the death penalty;

10. *Requests* the Secretary-General to dedicate the 2019 supplement to his quinquennial report on capital punishment to the consequences arising at various stages of the imposition and application of the death penalty on the enjoyment of the human rights of persons facing the death penalty and other affected persons, paying specific attention to the impact of the resumption of the use of the death penalty on human rights, and to present it to the Human Rights Council at its forty-second session;

11. *Decides* that the upcoming biennial high-level panel discussion to be held at the fortieth session of the Human Rights Council will address the human rights violations related to the use of the death penalty, in particular with respect to the rights to non-discrimination and equality;

12. *Requests* the Office of the United Nations High Commissioner for Human Rights to organize the high-level panel discussion and to liaise with States, relevant United Nations bodies, agencies, treaty bodies, special procedures and regional human rights mechanisms, as well as with parliamentarians, civil society, including non-governmental organizations, and national human rights institutions with a view to ensuring their participation in the panel discussion;

13. *Also requests* the Office of the High Commissioner to prepare a summary report on the panel discussion and to submit it to the Human Rights Council at its forty-second session;

14. *Decides* to continue its consideration of this issue in accordance with its programme of work.

40th meeting
29 September 2017

[Adopted by a recorded vote of 27 to 13, with 7 abstentions. The voting was as follows:

In favour:

Albania, Belgium, Bolivia (Plurinational State of), Brazil, Congo, Côte d'Ivoire, Croatia, Ecuador, El Salvador, Georgia, Germany, Ghana, Hungary, Kyrgyzstan, Latvia, Mongolia, Netherlands, Panama, Paraguay, Portugal, Rwanda, Slovenia, South Africa, Switzerland, Togo, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of)

Against:

Bangladesh, Botswana, Burundi, China, Egypt, Ethiopia, India, Iraq, Japan, Qatar, Saudi Arabia, United Arab Emirates, United States of America

Abstaining:

Cuba, Indonesia, Kenya, Nigeria, Philippines, Republic of Korea, Tunisia]